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No. 5] NEW DELHI, JANUARY 29—FEBRUARY 4, 2017, SATURDAY/MAGHA 9—MAGHA 15, 1938

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 24 फरवरी, 2016

का.आ. 236.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना कां.आ. 3503 दिनांक 26 सितंबर, 2005 का अधिकांश करते हुये सिवाय उन बातों के जो ऐसे अधिक्रमण से पूर्व की गई है या करने का लोप किया गया है, श्री एल.ए. पटेल, मामलतदार, आनंद (रुरल), जिला आनंद (गुजरात) जो भारत पेट्रोलियम कार्पोरेशन लिमिटेड (बीपीसीएल) में प्रतिनियुक्ति पर काम कर रहे हैं, उनको अपने कार्यभार के साथ भारत ओमान रिफाइनरीज लिमिटेड की सेंट्रल इंडिया रिफाइनरी परियोजना से संबंधित वाडिनार (गुजरात) से बीना (मध्य प्रदेश) तक की देशव्यापी कूड पाइपलाइन के लिए सक्षम प्राधिकारी के कृत्यों का निर्वहन करने के लिए उक्त अधिनियम, के अधीन मध्यप्रदेश राज्य के राज्यक्षेत्र के भीतर, प्राधिकृत करती है।

[फा. सं. आर-31015/1/07-ओआर-II]

पवन कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 24th February, 2016

S.O. 236.—In pursuance of Clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in Land) Act, 1962 (50 of 1962) and in supersession of the Ministry of Petroleum and Natural Gas. Government of India No. S.O. 3503 dated the 26th September, 2005, except as respect things done or omitted to be done before such supersession, the Central Government hereby authorizes, Shri L.A.Patel, Mamlatdar, Anand (Rural), Dist-Anand (Gujarat), to perform the functions of the Competent Authority in addition to his own duties, under said Act, within the territory of State of Gujarat for the cross country crude pipeline from Vadinar (Gujarat) to Bina (Madhya Pradesh) of Bharat Oman Refineries Limited (BORL).

[F. No. R-31015/1/07-OR-II]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 16 सितम्बर, 2016

का.आ. 237.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.आ. 3503 दिनांक 26 सितंबर, 2005 का अधिकांश करते हुये सिवाय उन बातों के जो ऐसे अधिक्रमण से पूर्व की गई है या करने का लोप किया गया है, श्री सचीन्द्र कुमार सिलावत, डिप्टी डायरेक्टर, डायरेक्टर आफ इंडस्ट्रीज, भोपाल (मध्य प्रदेश) जो भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड (बीपीसीएल) में प्रतिनियुक्ति पर काम कर रहे हैं, उनको अपने कार्यभार के साथ भारत ओमान रिफाइनरीज लिमिटेड की सेंट्रल इंडिया रिफाइनरी परियोजना से संबंधित वाडिनार (गुजरात) से बीना (मध्य प्रदेश) तक की देशव्यापी क्रूड पाइपलाइन के लिए सक्षम प्राधिकारी के कृत्यों का निर्वहन करने के लिए उक्त अधिनियम, के अधीन मध्यप्रदेश राज्य के राज्यक्षेत्र के भीतर, प्राधिकृत करती है।

[फा. सं. आर-31015/1/07-ओआर-II]

पवन कुमार, अवर सचिव

New Delhi, the 16th September, 2016

S.O. 237.—In pursuance of Clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in Land) Act, 1962 (50 of 1962) and in supersession of the Ministry of Petroleum and Natural Gas. Government of India No. S.O. 3503 dated the 26th September, 2005, except as respect things done or omitted to be done before such supersession, the Central Government hereby authorizes, Shri Sachindra Kumar Silawat, Deputy Director, Directorate of Industries, Bhopal (Madhya Pradesh), to perform the functions of the Competent Authority in addition to his own duties, under said Act, within the territory of State of Madhya Pradesh for the cross country crude pipeline from Vadinar (Gujarat) to Bina (Madhya Pradesh) of Bharat Oman Refineries Limited (BORL).

[F. No. R-31015/1/07-OR-II]

PAWAN KUMAR, Under Secy.

कोयला मंत्रालय

नई दिल्ली, 1 फरवरी, 2017

का.आ. 238.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें, इसके पश्चात् उक्त अधिनियम, कहा गया है) धारा 9 की उप-धारा (1) के अधीन जारी भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्या का.आ. 3685(अ), तारीख 7 दिसंबर, 2016 द्वारा, जो भारत के राजपत्र, असाधारण, भाग II, खंड 3, उप-खंड (ii), तारीख 9 दिसंबर, 2016 में प्रकाशित होने पर, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि में और उस पर के सतह अधिकार (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) उक्त अधिनियम, की धारा 10 की उप-धारा (1) के अधीन सभी विल्लंगमों से मुक्त होकर आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए थे;

और, केन्द्रीय सरकार का यह समाधान हो गया है कि महानदी कोलफील्ड्स लिमिटेड, जिला - सम्बलपुर, ओडिशा (जिसे इसमें इसके पश्चात् सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए रजामंद है;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम, की धारा 11 की उप-धारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि इस प्रकार निहित उक्त भूमि में या उस पर के सतही अधिकार तारीख 9 दिसंबर, 2016 से केन्द्रीय सरकार में उस प्रकार निहित बने रहने के बजाए, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, उक्त सरकारी कंपनी में निहित हो जाएंगे, अर्थात् :-

- (1) सरकारी कंपनी उक्त अधिनियम, के उपबंधों के अधीन अवधारित प्रतिकर, ब्याज, नुकसानी और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी;
- (2) उक्त अधिनियम, की धारा 14 के अंतर्गत सरकारी कंपनी द्वारा शर्त (1) के अधीन, केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजन के लिए एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंध उपगत सभी व्यय, सरकारी कंपनी वहन करेगी और इसी प्रकार, इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में सभी विधिक कार्यवाहियों, जैसे अपील, आदि की बाबत उपगत सभी व्यय भी, सरकारी कंपनी वहन करेगी ;
- (3) सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की ऐसे किसी अन्य व्यय के संबंध में, जो इस प्रकार निहित उक्त भूमि या उस पर के अधिकारों के बारे में केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो, क्षतिपूर्ति करेगी ;
- (4) सरकारी कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि या अधिकार किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी ; और
- (5) सरकारी कंपनी, ऐसे निदेशों और शर्तों का, जो केन्द्रीय सरकार द्वारा जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित की जाएं, पालन करेगी।

[फा.सं. 43015/21/2016-एल ए एण्ड आईआर]

सुजीत कुमार, अवर सचिव

MINISTRY OF COAL

New Delhi, the 1st February, 2017

S.O. 238.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal, number S.O. 3685(E), dated the 7th December, 2016, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 9th December, 2016, issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the lands and surface rights over the said land described in the Schedule appended to the said notification (hereinafter referred to as the said land) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas, the Central Government is satisfied that the Mahanadi Coalfields Limited, District - Sambalpur, Odisha (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs, that the said land and surface rights in or over the said land so vested shall with effect from the 9th December, 2016 instead of continuing to so vest in the Central Government, shall vest in the Government Company, subject to the following terms and conditions, namely :-

- (1) The Government Company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
- (2) A Tribunal shall be constituted under section 14 of the said Act for the purpose of determining the amounts payable to the Central Government by the Government Company under conditions (1) and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the Tribunal shall be borne by the Government Company and similarly, all expenditure incurred in respect of all legal proceedings like

appeals, etc. for or in connection with the rights, in or over the said lands, so vesting, shall also be borne by the Government Company;

- (3) The Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials, regarding the rights in or over the said land so vested;
- (4) The Government Company shall have no power to transfer the lands to any other persons without the prior approval of the Central Government ; and
- (5) The Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands, as and when necessary.

[F. No. 43015/21/2016-LA & IR]

SUJEET KUMAR, Under Secy.

श्रम और रोजगार मंत्रालय

(रोजगार महानिदेशालय)

नई दिल्ली, 24 जनवरी, 2017

का.आ. 239.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 यथा संशोधित 1987 के नियम 10 के उप-नियम (2) एवं (4) के अनुसरण में एतद्वारा रोजगार महानिदेशालय (श्रम और रोजगार मंत्रालय) को जिसके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[सं. डीजीई-ई-11012/1/2016-हिंदी]

एम. एस. कलानियाँ, उप सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

(DIRECTORATE GENERAL OF EMPLOYMENT)

New Delhi, the 24th January, 2017

S.O. 239.—In pursuance of Sub-rule (2) and (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976 (As Amended 1987), the Central Government hereby notifies Directorate General of Employment (Ministry of Labour and Employment), more than 80% staff whereof have acquired working knowledge of Hindi.

[No. DGE-E-11012/1/2016-Hindi]

M. S. KALANIA, Dy. Secy.

नई दिल्ली, 24 जनवरी, 2017

का.आ. 240.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 78/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.01.2017 को प्राप्त हुआ था।

[सं. एल-22012/416/1998-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 24th January, 2017

S.O. 240.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 78/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in Annexure, in the industrial dispute between the management of M/s. ECL and their workmen, received by the Central Government on 24.01.2017.

[No. L-22012/416/1998-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL****PRESENT :** Sri Pramod Kumar Mishra, Presiding Officer**REFERENCE NO. 78 OF 1999****PARTIES :**

The management of Parascole Colliery of M/s. ECL

Vs.

Sh. Chandi Singh

REPRESENTATIVES :

For the management : Sri P. K. Das, Learned Advocate

For the union (Workman) : Sri Rakesh Kumar, Union President

Industry : Coal

State : West Bengal

Dated: 28.12.2016

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter **No. L-22012/416/98/IR(CM-II)** dated 07.07.1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Parascole Colliery of M/s. Eastern Coalfields Limited in dismissing Sh. Chandi Singh, Trammer, from service is legal and justified? If not, to what relief is the workman entitled?”

1. Having received the Order No. **L-22012/416/98/IR(CM-II)** dated 07.07.1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. **78 of 1999** was registered on 23.07.1999/17.09.2001 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.
2. Case called out. Sri P. K. Das, Learned Advocate appears on behalf of the management. Sri Rakesh Kumar, President of the Union appears on behalf of the union/workman.
3. On perusal of the case record it is found that the workman has already joined in service and now no dispute exists between the employer and the workman. He has also endorsed his remarks on the order sheet as “Not pressed”.
4. Since the workman has already joined in service and no dispute exists between the parties, the case is closed and accordingly a ‘**No Dispute Award**’ is hereby passed.

ORDER

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 24 जनवरी, 2017

का.आ. 241.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 58/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.01.2017 को प्राप्त हुआ था।

[सं. एल-22012/246/1998-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 24th January, 2017

S.O. 241.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 58/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in Annexure, in the industrial dispute between the management of M/s. ECL and their workmen, received by the Central Government on 24.01.2017.

[No. L-22012/246/1998-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 58 OF 1999

PARTIES :

The management of Parascole Colliery of M/s. ECL

Vs.

Sh. Salim Mia

REPRESENTATIVES :

For the management : Sri P. K. Das, Learned Advocate

For the union (Workman) : Sri M. Mukherjee, Learned Advocate

Industry : Coal

State : West Bengal

Dated: 05.12.2016

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. **L-22012/246/98-IR(CM-II)** dated 25.05.1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Parascole Colliery of Kajora Area of M/s. Eastern Coalfields Limited Coalfields Limited by not protecting the wages of Sh. Salim Mia, Trammer in conversion from Time Rate to Piece Rate is legal and justified? If not, to what relief is the workman entitled?”

1. Having received the Order No. **L-22012/246/98-IR(CM-II)** dated 25.05.1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. **58 of 1999** was registered on 07.06.1999 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.
2. Case called out. Sri P. K. Das, Learned Advocate appears on behalf of the management. None appears on behalf of the union.
3. On perusal of the case record it is found that the case was fixed for filing evidence of workman on 10.06.2009. After that more than seven years have been passed but the union did not turn up even for a single day after 02.03.2007. Registered notices were issued to the union on 09.03.2009 and 09.08.2016 but to no effect.
4. It seems that neither the workman nor the union is interested to proceed with the case further. The case is also very old – of the year 1999. I have now no option left but to close this case. As such this old case is closed and accordingly a ‘**No Dispute Award**’ is hereby passed.

ORDER

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 24 जनवरी, 2017

का.आ. 242.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 22/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.01.2017 को प्राप्त हुआ था।

[सं. एल-22012/320/1994-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 24th January, 2017

S.O. 242.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/1994) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in Annexure, in the industrial dispute between the management of M/s. ECL and their workmen, received by the Central Government on 24.01.2017.

[No. L-22012/320/1994-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL****PRESENT :** Sri Pramod Kumar Mishra, Presiding Officer**REFERENCE NO. 22 OF 1994****PARTIES :**

The management of Sitarampur Area of M/s. ECL

Vs.

Colliery Mazdoor Sabha (CITU), Asansol

REPRESENTATIVES :

For the management : Sri P. K. Das, Learned Advocate

For the union (Workman) : Sri N. Ganguly, Learned Advocate

Industry : Coal

State : West Bengal

Dated: 08.12.2016

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. **L-22012(320)/94-IR.C-II** dated 12.12.1994 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Sitarampur Area of M/s. Eastern Coalfields Limited by supplying 4 buckets of coal instead of 8 buckets of coal as per Central Wage Board recommendation is justified? If not, to what relief is the workman entitled?”

1. Having received the Order No. **L-22012(320)/94-IR.C-II** dated 12.12.1994 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. **22 of 1994** was registered on 26.12.1994 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

2. Case called out. Sri P. K. Das, Learned Advocate appears on behalf of the management. None appears on behalf of the union.

3. On perusal of the case record it is found that none appeared before the court on behalf of the workman/union after 30.01.2008. Thereafter 11 dates have been granted. Registered notices were also issued on 19.03.2009, 19.03.2012 & 09.08.2016 but to no effect. Last two notices have been returned by the Post Office with the remarks “Left” the address. But neither the union nor the workman has informed the court about their new address.

4. It seems that neither the workman nor the union is interested to proceed with the case further. The case is also very old – of the year 1994. So there is no reason to keep this old case pending without any result. As such this old case is closed and accordingly a ‘No Dispute Award’ is hereby passed.

ORDER

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 25 जनवरी, 2017

का.आ. 243.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 1 फरवरी, 2017 को उस तारीख के रूप में नियत करती है, जिसे उक्त अधिनियम के अध्याय IV (धारा 44 व 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) तथा अध्याय V और VI [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबंध पश्चिम बंगाल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“बांकुरा जिले, पश्चिम बंगाल राज्य के संपूर्ण क्षेत्र” ।

[सं. एस-38013/01/2017-एस.एस.-I]

अजय मलिक, अवर सचिव

New Delhi, the 25th January, 2017

S.O. 243.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees’ State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st February, 2017 as the date on which the provisions of Chapter-IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following Areas in the State of West Bengal namely :—

“All the areas of the District Bankura, West Bengal.”

[No. S-38013/01/2017-S.S.-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 25 जनवरी, 2017

का.आ. 244.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 1 फरवरी, 2017 को उस तारीख के रूप में नियत करती है, जिसे उक्त अधिनियम के अध्याय IV (धारा 44 व 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) तथा अध्याय V और VI [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध असम राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

राज्य	जिला	राजस्व केन्द्र
असम	नलगबाड़ी	नलगबाड़ी नगरपालिका बोर्ड

[सं. एस-38013/02/2017-एस.एस.-I]

अजय मलिक, अवर सचिव

New Delhi, the 25th January, 2017

S.O. 244.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st February, 2017 as the date on which the provisions of Chapter-IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following District in the State of Assam namely :—

State	District	All the areas falling under
Assam	Nalbari	Nalbari Municipal Board

[No. S-38013/02/2017-S.S.-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 27 जनवरी, 2017

का.आ. 245.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 55/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.01.2017 को प्राप्त हुआ था।

[सं. एल-41011/43/2014-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th January, 2017

S.O. 245.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 55/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 27.01.2017.

[No. L-41011/43/2014-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 6th January, 2017

Reference: (CGITA) No. 55/2014

The Chief Works Manager,
Western Railway,
O/o Chief Works Manager,
Engineering Workshop, Sabarmati,
Ahmedabad (Gujarat)

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
E/209, Sarvottamnagar,
Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri Mukesh Pandit

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/43/2014-IR(B-I) dated 13.05.2014 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of demand of the union, Paschim Railway Karmachari Parishad in not filling three vacant posts of Jr. Clerk by Railway administration through Chief Works Manager, Engineering Workshop, Sabarmati, Ahmedabad in spite of they have assured in the conciliation proceedings is justified? If so, what relief the union, Paschim Railway Karmachari Parishad is entitled to?”

1. The reference dates back to 13.05.2014. Despite service the second party did not submit the statement of claim.
2. Now today on 06.01.2017, the Divisional Secretary, Paschim Railway Karmachari Parishad has not pressed the reference and requested to withdraw the reference.
3. Therefore, the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 27 जनवरी, 2017

का.आ. 246.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 800/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.01.2017 को प्राप्त हुआ था।

[सं. एल-41012/146/2002-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th January, 2017

S.O. 246.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 800/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 27.01.2017.

[No. L-41012/146/2002-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 6th January, 2017

Reference: (CGITA) No. 800/2004

The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat) – 390004

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole Kothi,
Baroda (Gujarat)

...Second Party

For the First Party :

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/146/2002-IR(B-I) dated 17.04.2003 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Western Railway, Baroda in denying the promotion to Shri K.P. Surti and Ayoti Chollan to the post of Technician Gr. I is justified? If not, what relief the concerned workmen Shri K.P. Surti and Ayoti Chollan are entitled to?”

1. The reference dates back to 17.04.2003. The second party submitted the statement of claim Ex. 4 on 16.12.2003 and the first party submitted the written statement on 20.05.2004. Since then both the parties have been absent. Fresh notices were issued to the parties on 01.05.2006 and 28.04.2011 but to no result. Now today on 06.01.2017, the Divisional Secretary, Paschim Railway Karmachari Parishad has not pressed the reference and requested to withdraw the reference.
2. Therefore, the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 27 जनवरी, 2017

का.आ. 247.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 53/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.01.2017 को प्राप्त हुआ था।

[सं. एल-41011/09/2009-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th January, 2017

S.O. 247.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 53/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 27.01.2017.

[No. L-41011/09/2009-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 6th January, 2017

Reference: (CGITA) No. 53/2010

The Divisional Railway Manager,
Western Railway, DRM Office,
Ahmedabad (Gujarat)

...First Party

V/s

The General Secretary,
Western Railway Kamdar Sangh,
78/9-C, National Highway,
Gandhidham,
Kutch (Gujarat)

...Second Party

For the First Party : Shri N. J. Acharya

For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/09/2009-IR(B-I) dated 04.05.2010 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of D.R.M. (E), Ahmedabad in not paying the officiating allowances/wages as officiating shunting Jamadar to Shri Anwar Ali M Points Jamadar w.e.f. 29.10.1995 till date, is legal and justified? If not, what relief the workman concerned is entitled to?”

1. The reference dates back to 04.05.2010. Both the parties were issued notice by the Industrial Tribunal, Gujarat on 18.05.2010 to both the parties but neither of the parties submitted their statement of claim or written statement till 01.11.2010 when the reference was transferred to this tribunal from the State Industrial Tribunal, Gujarat. This tribunal issued notices twice on 30.12.2010 and 23.02.2012 to both the parties to appear on 04.03.2011 and 23.05.2012 respectively. But neither of the parties submitted their statement of claim or written statement till date. Thus, it appears that the second party is not willing to prosecute the case.
2. The tribunal has no option but to dispose of the reference in the absence of the statement of claim and evidence with the observation as under: “the action of the management of D.R.M. (E), Ahmedabad in not paying the officiating allowances/wages as officiating shunting Jamadar to Shri Anwar Ali M Points Jamadar w.e.f. 29.10.1995 till date, is legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 27 जनवरी, 2017

का.आ. 248.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 158/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.01.2017 को प्राप्त हुआ था।

[सं. एल-41011/17/2013-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th January, 2017

S.O. 248.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 158/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 27.01.2017.

[No. L-41011/17/2013-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 6th January, 2017

Reference: (CGITA) No. 158/2013

1. The Divisional Railway Manager,
Western Railway, Pratap Nagar,
Baroda (Gujarat)
2. The Sr. Divisional Engineer (Power),
Western Railway, Pratap Nagar,
Baroda (Gujarat)

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Kothi,
Baroda (Gujarat)

...Second Party

For the First Party :

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/17/2013-IR(B-I) dated 20.09.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Paschim Railway Karmachari Parishad, Baroda to give one increment to Shri Chandra Jaisingh, Sr. Khalasi w.e.f. 01.09.2008 and give the post of Fitter Grade – 3 with all benefits is legal, proper and just? If so, to what relief the concerned workman Shri Chandra Jaisingh, Sr. Khalasi is entitled to?”

1. The reference dates back to 20.09.2013. Despite service the second party did not submit the statement of claim.
2. Now today on 06.01.2017, the Divisional Secretary, Paschim Railway Karmachari Parishad has not pressed the reference and requested to withdraw the reference.
3. Therefore, the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 27 जनवरी, 2017

का.आ. 249.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 178/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.01.2017 को प्राप्त हुआ था।

[सं. एल-41012/23/2013-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th January, 2017

S.O. 249.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 178/2013) of the Central Government Industrial Tribunal-cum-

Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 27.01.2017.

[No. L-41012/23/2013-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 6th January, 2017

Reference: (CGITA) No. 178/2013

The Divisional Railway Manager (E),
Western Railway,
Divisional Office, Kothi Compound,
Rajkot (Gujarat)

...First Party

V/s

Shri R.B. Jhala,
501- Somnath Heights,
Nr. St. Xavier School,
Himmatnagar – 5,
Jamnagar (Gujarat) – 361008

...Second Party

For the First Party :

For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/23/2013-IR(B-I) dated 04.10.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Western Railway, Rajkot Division not paying officiating allowance for the period from 04.05.1998 to 19.03.2004, not fixing the basic pay properly and non-counting military service for the purpose of pension is justified? To what relief the applicant, Shri R.B. Jhala is entitled?”

1. The reference dates back to 04.10.2013. The second party submitted the statement of claim Ex. 4 on 18.10.2013. The first party was served vide notice dated 21.06.2013 by registered post but the first party did not prefer to submit the written statement despite giving ¾ dozen of opportunities to file written statement. Therefore, on 24.06.2016, the case was ordered to proceed ex-parte against the first party and the case was listed for 18.11.2016 for leading evidence of the second party. The second party on 18.11.2016 submitted his affidavit in support of his statement of claim along with documentary evidence regarding his claim mentioned in the reference and statement of claim. Today on 06.01.2017, the second party submitted the written argument justifying his claim.

2. The evidence and averments made in the statement of claim reveals that the second party workman R.B. Jhala served Indian Army from 26.07.1971 to 26.12.1977. He was voluntary discharged from the Army and appointed as Assistant Station Master in Rajkot Division of western railway from the ex-serviceman quota on 10.08.1988. As he was voluntary discharged from Army service without completing 7 years of service, therefore, he was not entitled for the pension. As per the provisions of Rule 34 of the Railway Service (Pension Rules 1993), the first party was required to count his services rendered in military as qualifying service and giving service benefits as well as pensionary benefits to the ex-serviceman enrolled in Central Government Service which were denied to him by the first party.

3. As the first party has not rebutted the aforesaid evidence by appearing, submitting written statement therefore, the evidence of the second party can be believed and the contention and evidence of the second party has forced as per the aforesaid pension rules.
4. In my view, the second party is entitled for the prayer made in the Para 12 of the statement of claim. However the accounts division of the western railway may scrutinize the claims made in the Para 12 of the statement of claim Ex. 4. The statement of claim Ex. 4 will also be the part of the award.
5. The first party Western Railway will grant the aforesaid relief mentioned in the Para 12 of the statement of claim Ex. 4 within 60 days of the publication of the award.
6. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 27 जनवरी, 2017

का.आ. 250.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 486/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.01.2017 को प्राप्त हुआ था।

[सं. एल-12012/481/2001-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th January, 2017

S.O. 250.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 486/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 27.01.2017.

[No. L-12012/481/2001-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 3rd January, 2017

Reference: (CGITA) No. 486/2004

The Chief General Manager,
State Bank of India,
7th Floor, Bhadra,
Ahmedabad (Gujarat) – 380001

...First Party

V/s

Shri Purabia Bhartkumar K.,
57, Shivanagar Row House, Nr. Dayal Society,
Jivaraj Park,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri B.K. Oza

For the Second Party : Shri R.C. Pathak and Chintan Goyal

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/481/2001-IR(B-I) dated 30.04.2002 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of State Bank of India, Local Head Office, Ahmedabad in terminating the services of Shri Bharatkumar K. Purabia w.e.f. May, 1996 without following the provisions of Section 25 (F), 25 (G) and 25 (H) of the Industrial Disputes Act, 1947 is justified? If not, what relief the concerned workman is entitled?”

1. The reference dates back to 30.04.2002. The second party submitted the statement of claim Ext. 5 on 08.07.2003 and the first party submitted the written statement Ext. 7 on 30.02.2007. Since then the second party has been absent and has not lead evidence despite the fact that fresh notice Ext. 8 was issued to both the parties to appear on 29.06.2011 but till 13.01.2016, second party did not respond and on 13.01.2016, Shri Chintan Goyal, advocate for the second party moved an application Ext. 9 for leading evidence but to no result. Thus it appears that the second party has no willingness to prosecute the case.

2. Therefore, the reference in the absence of the evidence of the second party workman is disposed of with the observation as under: “the action of the management of State Bank of India, Local Head Office, Ahmedabad in terminating the services of Shri Bharatkumar K. Purabia w.e.f. May, 1996 without following the provisions of Section 25 (F), 25 (G) and 25 (H) of the Industrial Disputes Act, 1947 is justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 27 जनवरी, 2017

का.आ. 251.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 799/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.01.2017 को प्राप्त हुआ था।

[सं. एल-41012/214/2002-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th January, 2017

S.O. 251.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 799/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 27.01.2017.

[No. L-41012/214/2002-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 6th January, 2017

Reference: (CGITA) No. 799/2004

1. The Sr. Divisional Electrical Engineer (Power),
Western Railway, Pratapnagar,
Baroda (Gujarat) - 390004

2. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat) – 390004
3. The Sr. Section Engineer (Electrical),
Western Railway,
Baroda (Gujarat) – 390004

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole Kothi,
Baroda (Gujarat)

...Second Party

For the First Party : Shri Jatin J. Vakil

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/214/2002-IR(B-I) dated 10.04.2003 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Western Railway in terminating the services of Shri Bipin A. Parmar is justified? If not, what relief the concerned workman is entitled to?”

1. The reference dates back to 10.04.2003. The second party submitted the statement of claim Ex. 4 on 16.12.2003 and the first party submitted the written statement on 06.05.2004. Since then both the parties have been absent. Fresh notices were issued to the parties on 01.05.2006 and 28.04.2011 but to no result. Now today on 06.01.2017, the Divisional Secretary, Paschim Railway Karmachari Parishad has not pressed the reference and requested to withdraw the reference.
2. Therefore, the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 27 जनवरी, 2017

का.आ. 252.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सौराष्ट्र ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 83/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.01.2017 को प्राप्त हुआ था।

[सं. एल-12012/33/2007-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th January, 2017

S.O. 252.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 83/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Saurashtra Gramin Bank and their workmen, received by the Central Government on 27.01.2017.

[No. L-12012/33/2007-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 05th January, 2017

Reference: (CGITA) No. 83/2007

The Chairman,
Saurashtra Gramin Bank, Head Office,
SJ Palace, 1st Floor, Opp. AndhMahileVikasGrih,
Dhebar Road, Rajkot (Gujarat)

...First Party

V/s

Mahen H. Dubel,
2/3's Corner, S.K. Main Road,
Near Doctor Bhatt's Clinic,
Gandhigram, Rajkot (Gujarat)

...Second Party

For the First Party : D.C. Gandhi Associates

For the Second Party : Dharmendra D. Bhuchhada

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/33/2007-IR(B-I) dated 10.08.2007 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of the Chairman, Saurashtra Gramin Bank, Rajkot in terminating the services of Shri M.H. Dubal, an ex-Daily wage Driver orally with effect from 03.01.2006 is legal and justified? If not, what relief the workman concerned is entitled to?”

1. The reference dates back to 10.08.2007. Both the parties were issued notices by the tribunal and they were also served by registered post. D.C. Gandhi Associates submitted vakalatpatra Ex. 6 on behalf of the first party and Dharmendra D. Bhuchhada submitted the vakalatpatra Ex. 7 on behalf of second party. Second party submitted the statement of claim Ex. 8 on 14.10.2008 wherein he alleged that he was appointed and joined the first party Saurashtra Gramin Bank on 18.12.2000 as driver for plying the Car of the chairman of the first party bank. He worked with the bank from 08.12.2000 to 02.01.2006. The first party bank used to pay his salary by way of cheque which was deposited in the bank but the salary does not include any allowance. He served the first party bank continuously during the aforesaid period with more than 240 days in each calendar year. He was not issued any notice or memo for any misconduct what so ever against him during the said period. Besides the discharging the duty of the driver, he used to do work of in the despatch section and as well as of a peon. During the said period, he demanded the allowances admissible to the post same were denied and suddenly on 03.01.2006, without giving any notice or notice pay or retrenchment compensation, he was removed from the service suddenly. The said action was violative of the Section 25 F, G & H of the Industrial Disputes Act. Therefore, he has prayed for reinstatement with back wages.
2. The first party vide written statement vide Ex.9 denied all the averments made in the statement of claim. However it is admitted that he was engaged as daily wager by the bank and he was appointed on 08.12.2000 as Driver and admitted that he worked from 08.12.2000 to 02.01.2006 but he never worked for more than 240 days in any calendar year. Therefore, he is not entitled for any relief.
3. From the perusal of the pleadings, the following issues arises:
 - i. Whether the action of the management of the Chairman, Saurashtra Gramin Bank, Rajkot in terminating the services of Shri M.H. Dubal, an ex-Daily wage Driver orally with effect from 03.01.2006 is legal and justified?
 - ii. To what relief if any, the workman concerned is entitled?

4. The burden of proof of these issues was lying on the first party for which the second party submitted his affidavit/examination in chief Ex. 13 wherein he has reiterated the averments made in the statement of claim on oath on 07.08.2012. But the first party did not prefer to cross-examine on the said affidavit Ex.13. On 03.09.2016, Advocate Shri J.D. Chalishazaar, advocate for the first party stated that he has withdrawn his vakalatpatra for the first party. No advocate has engaged by the first party to cross-examine the second party workman. Thus the evidence of the second party is conclusive in nature as being not rebutted by the first party by way of cross examination of the workman or submitting other evidence.

5. Thus on the basis of the evidence of the second party workman, I come to the conclusion that the second party workman was a daily wager/driver of the first party who worked for more than 240 days in each and every calendar year from 08.12.2000 to 02.01.2006.

6. From the evidence on record, it appears that the workman, despite having served the first party as driver for more than 240 days in every calendar year, was removed without serving notice, notice pay or retrenchment compensation. Therefore, the first party took the impugned action violating the provisions of Section 25 F, G & H of the Industrial Disputes Act.

7. Thus In the light of the aforesaid evidence, both the issues are decided in affirmative and in favour of the workman. The first party is directed to re-employ the second party workman as driver within 60 days from the date of the publication of the award.

8. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 27 जनवरी, 2017

का.आ. 253.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 778/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.01.2017 को प्राप्त हुआ था।

[सं. एल-41012/104/2001-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th January, 2017

S.O. 253.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 778/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 27.01.2017.

[No. L-41012/104/2001-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 6th January, 2017

Reference: (CGITA) No. 778/2004

The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat) – 390004

...First Party

V/s

The General Secretary,
Paschim Railway Karmachari Parishad,
E/209, Sarvottamnagar,
Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri Rajesh Singh

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/104/2001-IR(B-I) dated 18.12.2001 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Divisional Railway Manager, Western Railway, Baroda in removing Shri Ramesh S. Pointsman under SM, Maliya Miyana from services w.e.f. 28.07.1997 is justified? If not, what relief the concerned workman is entitled?”

1. The reference dates back to 18.12.2001. The second party submitted the statement of claim on 12.10.2004 and the first party submitted the written statement Ex. 11 on 27.02.2011. Since then both the parties have been absent. Now today on 06.01.2017, the Divisional Secretary, Paschim Railway Karmachari Parishad has not pressed the reference and requested to withdraw the reference.
2. Therefore, the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 27 जनवरी, 2017

का.आ. 254.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 713/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.01.2017 को प्राप्त हुआ था।

[सं. एल-41012/98/2000-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th January, 2017

S.O. 254.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 713/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 27.01.2017.

[No. L-41012/98/2000-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 6th January, 2017

Reference: (CGITA) No. 713/2004

1. The General Manager,
Western Railway, Churchgate,
Mumbai - 400009

2. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat) – 390004

...First Party

V/s

The Dy. General Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole Kothi,
Baroda (Gujarat)

...Second Party

For the First Party :

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/98/2000-IR(B-I) dated 29.08.2000 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the union, Paschim Railway Karmachari Parishad, Baroda for payment of settlement dues and grant of family pension to the wife of Late Shri Bhavsinh Ramji, Gangman and demand of the union for appointment of Shri Bhamar Sinh Bhavsinh on compassionate grounds is justified, legal and proper? If so, to what relief, wife of Late Shri Bhavsinh Ramji and Shri Bhamar Sinh Bhavsinh (son of deceased employee) are entitled?”

1. The reference dates back to 29.08.2000. The second party despite service has not submitted the statement of claim even the reference remain pending for 10 years. However, the first party submitted the written statement Ex.9 on 29.11.2006. The case was decided by the Industrial Tribunal on 27.01.2001 but the Industrial Tribunal, Vadodara vide his order dated 16.02.2004 set aside the award by restoring the reference to its original number. After receiving the reference from the State Tribunal, the notice was issued to both the parties to appear and submit the pleadings on 28.04.2011. After a lapse of 5 years, Shri R.S. Sisodiya, Secretary of PRKP, moved an application Ex. 10 for submitting the statement of claim but he also failed to submit the statement of claim. Thus, it appears that the second party is not willing to prosecute the case.

2. The tribunal has no option but to dispose of the reference in the absence of the statement of claim and evidence with the observation as under: “the demand of the union, Paschim Railway Karmachari Parishad, Baroda for payment of settlement dues and grant of family pension to the wife of Late Shri Bhavsinh Ramji, Gangman and demand of the union for appointment of Shri Bhamar Sinh Bhavsinh on compassionate grounds is not justified, legal and proper.

3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 27 जनवरी, 2017

का.आ. 255.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 691/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.01.2017 को प्राप्त हुआ था।

[सं. एल-41012/143/99-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th January, 2017

S.O. 255.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 691/2004) of the Central Government Industrial Tribunal-cum-

Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 27.01.2017.

[No. L-41012/143/99-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 6th January, 2017

Reference: (CGITA) No. 691/2004

1. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat) – 390004
2. The Divisional Engineer (South),
Western Railway, Pratapnagar,
Baroda (Gujarat) – 390004
3. The Chief Permanent Way Inspector,
Western Railway, Kribhco Siding, Distt. Surat,
Surat (Gujarat) – 395003

...First Party

V/s

The General Secretary (Zonal),
Paschim Railway Karmachari Parishad,
Shastri Pole Kothi,
Baroda (Gujarat)

...Second Party

For the First Party : Shri P. Mavlankur

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/143/99-IR(B-I) dated 06.10.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Western Railway through the Divisional Railway Manager, Baroda & other officers in terminating the services of Mr. Ratna Navla, Gangman by way of removal from the services vide NIP dated 23.03.1993 is legal, proper and justified?”

And

“Whether the penalty/punishment of removal from service is proportionate to the gravity of misconduct? If not, to what relief the concerned workman Mr. Ratna Navla is entitled to and what directions are necessary in the matter?”

1. The reference dates back to 06.10.1999. The second party submitted the statement of claim on 01.06.2000. But the first party did not submit the written statement despite submitting the vakalatpatra Ex. 2 of his advocate on 06.01.2000. Earlier the reference was decided as ex-parte vide order dated 01.06.2000 of Industrial Tribunal, Vadodara which was set aside and restored to its original number on 14.02.2004. Since then the both the parties have been absent. Thus, it appears that the second party is not willing to prosecute the case.
2. The tribunal has no option but to dispose of the reference in the absence of the statement of claim and evidence with the observation as under: “the action of the management of Western Railway through the Divisional Railway

Manager, Baroda & other officers in terminating the services of Mr. Ratna Navla, Gangman by way of removal from the services vide NIP dated 23.03.1993 is legal, proper and justified.” And “the penalty/punishment of removal from service is proportionate to the gravity of misconduct.”

3. He is not entitled to any relief.
4. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 27 जनवरी, 2017

का.आ. 256.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 458/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.01.2017 को प्राप्त हुआ था।

[सं. एल-12012/354/2001-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 27th January, 2017

S.O. 256.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 458/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 27.01.2017.

[No. L-12012/354/2001-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 6th January, 2017

Reference: (CGITA) No. 458/2004

The Dy. General Manager,
State Bank of India,
Personnel Deptt., L.H.O., Bhadra,
Lal Darwaja,
Ahmedabad (Gujarat) – 380001

...First Party

V/s

Shri BharatbhaiPravinbhai Patel,
Bhawala Vas, Vill. Ambali,
Tal. Dashkroi,
Ahmedabad (Gujarat) – 380001

...Second Party

For the First Party : Shri B.K. Oza

For the Second Party : Shri Moin Shaikh

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/354/2001-IR(B-I) dated 17.01.2002 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of Shri Patel BharatkumarPravinbhai for reinstatement as regular/permanent employee with the management of State Bank of India from the date of alleged termination i.e. 04.10.1998 and wages at par with regular employee along with consequential benefits is justified? If so, what relief workman entitled?”

1. The reference dates back to 17.01.2002. The reference was registered in the Industrial Tribunal Gujarat at Reference No. 09/2000 where after service of notice of the reference to the parties, the second party submitted the statement of claim Ext. 3 wherein second party has alleged that he had been engaged as daily wager (Peon Security) by the first party State Bank of India on 02.07.1994 in its Lal Darwaja Branch of Ahmedabad. He used to serve the bank from 10:00 AM to 06:00 PM everyday with discipline, faithfulness and sincerity. He served the first party bank for 512 from 02.07.1994 to 03.10.1998 and also served for more than 240 days from 21.07.1994 to 30.06.1995. He was issued the gate passes by the bank which proves that he worked for more than 240 days in a year. He has further alleged in his additional statement of claim Ext. 8 that he was directly recruited by the State Bank of India, first party and he was not appointed under any contract. But he was suddenly terminated on 04.10.1998 by an oral order and was not paid any retrenchment/compensation dues at the time of oral termination of his service. He was also not served with any notice at the said time. He has further alleged that some of the peons like of his status are working and were recruited on his place violating the provisions of Industrial Disputes Act. Thus he has prayed for reinstatement with back wages with all benefits.

2. The first party State Bank of India in his written statement Ext. 7 has denied the averments made in the statement of claim Ext. 3 and termed them as false. He has alleged in the written statement that the second party workman was merely a daily wager and his services were utilized only at the time of exigency. He has never been the permanent employee of the bank and was never hired or appointed on a permanent basis. He never worked continuously on permanent basis. Bank has also denied the contention of the second party workman that he worked for more than 240 days in a calendar year. Therefore, the bank has requested to decide the reference against the second party workman.

3. On the basis of the pleadings, the following issues arise for the decision of this tribunal:

- i. Whether the second party workman Shri Patel BharatkumarPravinbhai was a regular and permanent employee of the first party State Bank of India?
- ii. Whether the second party workman ever worked for more than 240 days in any calendar year since his appointment to the date of termination?
- iii. Whether the termination of the services of the second party workman Shri Patel BharatkumarPravinbhai was illegal, unjustified and also violative of the provisions of the Industrial Disputes Act?
- iv. To what relief, if any, is the second party workman entitled?

4. The burden of prove of the aforesaid issues was lying on the second party workman and he examined himself as witness by submitting the affidavit Ext. 12 as examination in chief and also submitted number of documents regarding his presence in the bank on number of days during the period of service alleged in the statement of claim vide list Ext. 19 and 20.

5. The first party bank did not prefer to examine any witness alleging that the second party workman has miserably failed to prove his case. Both the parties have submitted their written arguments Ext. 23 and 26 respectively.

6. The written argument of the second party are in brief that the second party workman was appointed on 02.07.1994 and worked for more than 512 days till the date 03.10.1998 and he also worked for more than 240 days from 21.07.1994 to 30.06.1995. In support of this argument, he has submitted the wages voucher slip and attendance slip. He has further submitted that first party bank has admitted in the argument that he was not appointed under any contract and has also admitted that he was not paid any dues at the time of termination of his job. He has further argued that in the written statement Ext. 7, the first party bank has admitted that the workman was appointed by the bank, even then denied as its employee. He has further argued that he has fully proved his case and his termination was illegal and violative of the provisions of Section 25 of the Industrial Disputes Act as being not served with the notice and notice pay or retrenchment compensation.

7. The first party bank has argued that the workman was simply a daily wager and his services were utilised during the period of exigency. He was paid wages by way of voucher for the period the workman worked in the bank. He was also issued duty slip for the period he worked in the bank which he has filed vide list Exh. 19 and 20.

8. During trial, the workman moved an application for production of documents regarding his duty and work in the bank in question. The first party bank submitted the reply alleging that the workman left the job in 1998 and reference was moved in 2002. All the documents have been weeded out; therefore, they cannot be produced. I considered the

applications and objections. As the second party workman has already filed the zerox copies of the documents asked to be produced which may be considered in the light of the arguments. Thus the application is disposed of accordingly.

9. **Issue No. i, ii, iii and iv:** All these issues are interrelated and can be decided together. The burden to prove these issues was lying on the workman second party. The workman second party has filed his affidavit Ex. 12 in support of his statement of claim Ex. 3 reiterating the averments made therein. In his cross-examination, he has stated that the work from 01.04.1991 to 31.12.1998, he worked for 512 days and out of this period from 21.07.1994 to 30.06.1995, he worked for more than 240 days. No doubt this evidence is supported with the documentary evidence filed by the second party workman vide list Ex. 19 and 20. Though this documentary evidence is not admitted by the first party State Bank of India being unauthorised and also zerox in nature. When the first party bank was asked to submit his own documents in this regard it was told that these documents being very old have been destroyed, therefore, these documents cannot be produced. Now the question arose, as to whether these documents can be believed. I suppose that these documents are believable, even then the second party workman has failed to prove that he was not a daily wager and secondly he worked for more than 240 days in a calendar year because during the whole 7 years of period, he has worked 512 days and from 21.07.1994 to 30.06.1995 he worked for more than 240 days. But he has failed to establish that he worked for more than 240 days in calendar years of 1994 and 1995 because he worked 6 months in the calendar year 1994 and another 6 months in the calendar year 1995. In the light of the aforesaid evidence, he cannot be said to be a workman as per the definition of workman given in Section 2(s) of the Industrial Disputes Act. He has also failed to lead any evidence to establish that he was a permanent employee of the first party bank.

10. The Gujarat High Court in Executive Engineer, Panchayat (R & V) Division District Panchayat, Surendranagar V/s Punabhai Govindbhai 1993(1 GLH 782) has held that no relief can be granted to a workman who has not completed 240 days in a calendar year.

11. The Supreme Court in State of UP V/s Rekha Rani 2011 (ii) CLR 17 held that a temporary employee not selected and appointed on a sanctioned post, in case of his termination of service, cannot have any right to the said post and cannot also be granted relief of reinstatement and consequential benefits.

12. The Supreme Court in Nagarmahapalika V/s State of UP 2006 (ii) CLR 1063 has held that respondent workman appointed on ad-hoc basis or as daily wager without following the due procedure of recruitment laid down in the rules despite the fact that he worked for more than 240 days in a year, such cease of job of said workman being daily wager on his cannot be termed as retrenchment. He cannot be granted the relief of reinstatement.

13. Thus in the light of the aforesaid observations, the workman is not entitled any relief sought by way of this reference.

14. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 257.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जेट एअरवेज इण्डिया प्राइवेट लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 35/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.01.2017 को प्राप्त हुआ था।

[सं. एल-11012/11/2009-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 257.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 35/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in Annexure, in the industrial dispute between the management of M/s. Jet Airways (India) Pvt. Ltd. and their workmen, received by the Central Government on 27.01.2017.

[No. L-11012/11/2009-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIUBNAL-CUM-LABOUR COURT,
BANGALORE**DATED : 13th January, 2017**PRESENT : Shri V. S. RAVI, Presiding Officer****C R No. 35/2009****I Party**

Sh. Prashant Rao,
C/o Mr. V Govinda Rao,
No. 47/A, 1st Block, 1st Main Road,
Thyagaraja Nagar,
Bangalore – 560028

I Party in person

II Party

The Senior General Manager ,
M/s. Jet Airways (India) Pvt. Ltd.,
S. M. Centre, Andheri Kurle Road,
Andheri (East)
Mumbai – 400059.

Represented by: M/s K. Sribhoomi,
Yesaswini & J. Pradeep Kumar, Executive,
Committee Members, ICEA for II Party

AWARD

1. The Central Government vide Order No.L-11012/11/2009-IR(CM-I) dated 06.07.2009 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule:

SCHEDULE

- (i) Whether the action of the management of Jet Airways (India) Ltd., Bangalore in dismissing the service of Shri Prashant Rao, Senior Operations Assistant w.e.f. 30.08.2008 is justified and legal?
- (ii) To what relief is the workman concerned entitled?

2. The brief details mentioned by the I Party/Workman, in the Claim Statement are as follows:

The I Party has been appointed as 'Customer Services Assistant' under the II Party on 20.10.1999. The I Party has undergone the probation for 6 months and has been posted in Customer Service Department of the II Party in Bangalore. Thereafter, the I Party has been confirmed in the post of 'Customer Service Assistant' w.e.f. 23.07.2000 on a monthly gross salary of Rs. 5,700/-. At the time of dismissal from service the I Party has received the monthly salary of Rs. 27,877/-. The I Party has discharged his duties honestly and faithfully to the satisfaction of his superiors. On 19.12.2007, the I Party has served in the afternoon shift duty. It has been alleged that while instructions have been given to the I Party to ensure the fuel figure at 7.5 tons, the I Party updated the Jet Soft with a figure of 8 tons. The same has been rectified later and in the process, a delay for the departure of flight by 29 minutes has happened. The I Party has been held responsible for the same, though it has been an isolated instance and an inadvertent act. In the circumstances, the II Party has alleged that the I Party has committed the misconduct of 'Acts Subversive of Discipline', 'Gross Negligence' and 'Neglect of Work' vide charge sheet dated 18.02.2008. Also, the enquiry has been held in haste. The whole proceedings of the enquiry have been concluded within 2 days and the I Party has not got, the ample time to go through the proceedings and submit his defence. The enquiry proceedings have been held in violation of the fairness. The complainant, Sri. Ramani, Manager, Flight Operations, though the material witness, has not been examined in the enquiry. The action of the II Party in dismissing I Party, based on the findings of the said enquiry, without affording him a reasonable opportunity of defending himself, is arbitrary and also, in violation of the principles of natural justice. The II Party has not considered the past records of the I Party and the extenuating circumstances before imposing the penalty of dismissal from service. The action of the II Party is not sustainable in law. The II Party is liable to reinstate the I Party with full back salary and continuity of service with all consequential benefits. In view of his dismissal from service, the I Party has been thrown out of employment and is facing hardship. The I Party could not get an alternate employment, in spite of his best efforts and is without any source of income. The I Party is facing serious financial difficulties in view of the arbitrary action of the II Party. Hence, the I Party has prayed to pass an award as prayed for in the claim statement.

3. Brief details mentioned in the Counter Statement are as follows:-

The I Party joined the organization on 23rd of October, 1999, and has served in the Flight Operations Department since the sixth of April 2001. One of the duties of the operations assistant is to update the fuel figures in the system of

the Jet Soft. On 19th December, 2007 the I Party has been posted for afternoon shift duty. Hence the Flight Operations Officer has instructed the I Party to give the exact fuel figure. When the fuel figure has been advised as 7.5 tons by the Captain, the I Party updated the Jet Soft with the figure of 8 tons. The fuelling of the aircraft has to be done for 7.5 tons. But the Supervisor-Customer Service prepared the load and the trim sheet, based on the fuel figures appearing in the Jet Soft, as 8 tons. The Captain advised that a revised load and trim sheet has to be prepared. Hence the Customer Services Department has to prepare a fresh load sheet, all over again, with the correct fuel figures of 7.5 tons. Due to the said circumstances, the delay of 29 minutes has happened for the departure of the said flight and when the captain attributed the delay to the flight operations Department, the I Party tried to influence the captain to shift the delay on the customer service department by arguing that they delayed the preparing of the load and trim sheet. In view of the lackadaisical attitude of the I Party and the negligent updating of the system, the flight took off after a delay of 29 minutes, causing hardship to the passengers and also to the employees and the cabin crew who have to handle the situation. In view of the seriousness of the situation the I Party has been charge sheeted and enquiry has been conducted in the said matter. After following the due process, the I Party's has been terminated from service and hence, the present dispute. The charges of acts subversive of discipline, gross negligence and neglect of work have been duly proved by means of the enquiry conducted against the I Party. The I Party has not sought time to cross examine the witnesses, either at the time of beginning of the cross-examination nor at the time of concluding the cross-examination. Hence, the I Party cannot blame the enquiry officer. Further, there is no rule that an enquiry must be prolonged for months together. Depending on the situation each enquiry can be concluded, accordingly. The I Party has also concluded the cross examination of the witnesses. Thereafter upon mutual consent the enquiry has been adjourned to the following day. Further, I Party has been placed as ex-parte and the enquiry has been proceeded with. Therefore the I Party cannot complain that the enquiry has been held, in violation of the principles of natural justice. Hence, there is no violation of principles of natural justice, and the misconduct, proved against the I Party, is grave in nature and deserves, dismissal. Hence, the question of reinstating the I Party does not arise at all. The I Party has not utilized, the opportunities given to him. It will be very pertinent to state that the I Party has not even sent any reply to the Second Show Cause Notice which shows his casual attitude. The delay caused to the said flight has caused the serious issue. Updating correct fuel figures in Jet soft is mandatory for safe operation of aircraft, since the load and trim sheets are prepared based on the said update. Hence, the II Party has pointed out that the, I Party is not entitled to get any relief.

4. The Brief details mentioned in Rejoinder filed by the I Party are as follows:-

The enquiry has been held in gross violation of the law in general and service law, in particular, and the charge sheet, itself is unclear as the list of witnesses and gist of what the witness would adduce, have not been furnished to the I Party. In spite of objections raised by the I Party to the Disciplinary Authority, no effort has been made to issue the corrigendum. Hence, it is illegal and, even the elementary principles of law, have not been followed, and in fact the I Party is an employee and the II Party is his employer, a vast organization. There is no reason to complete the enquiry within 2 working days, more so when the enquiry officer is based at Chennai and all the witnesses are based at Bangalore. The I Party ought to have been asked as to whether he has any witnesses to counter the case. The same has not been done. Instead he has been asked to furnish his written brief. The entire procedures are illegal, untenable and exhibits, bias and prejudice against the I Party. Captain Ravi Padmanabhan is the witness around whom the case revolved and he is the axis. The said witness has been chosen to be examined on the day the I Party could not attend and the enquiry officer has done the enquiry, at the second day of the enquiry, by setting the I Party, as Ex-parte. An enquiry which resulted in dismissal from services has been completed in 2 days. The enquiry officer has done the enquiry in a great hurry at the cost of I Party and thus biased and prejudiced. Further, the Captain Ravi Padmanabhan has not been examined in the presence of I Party and also, not tendered for cross examination. Nothing prevented the II Party to use the discretion for postponing the enquiry by a day, more so, when there is no time frame fixed to complete the enquiry. The entire fresh revised manuscript (load and trim sheet) must have been prepared in not less than 15-20 minutes. The II Party has not lost anything in terms of finance nor any complaint has been made by any of the passengers nor it has resulted in any serious consequences. Therefore the I Party prays to direct the II Party to reinstate the I Party with full back salary and allowances and continuity of service and grant him all consequential benefits.

5. The Brief details mentioned in the Objection to Rejoinder filed on behalf of II Party are as follows:-

It is submitted that the allegation of the I Party that the enquiry has been held in violation of the law in general and service, in particular, is not tenable since the only general law that governs the conducting of enquiry, is the principles of natural justice and that there has been no violation of the principles of natural justice. Service law would not apply to the present case and only Labour law would apply. The charge sheet has been understood by the employee and the employee has participated in the enquiry and therefore cannot contend that the charge sheet is ambiguous. The I Party has merely alleged that the enquiry officer findings are illegal and cannot stand the judicial scrutiny. However, no reason has been given as to why such an allegation is being made and therefore the allegation has no legs to stand and cannot be entertained. The object of the enquiry is to give the ample opportunity to the I Party. If the witnesses are

available and the I Party has not objected, then, the enquiry can be completed even in one day. The I Party has no right to complain about the procedure of the enquiry when he has not appeared before the enquiry officer on the second sitting and also, the I Party has not asked for reopening of the enquiry. The dispute is only regarding the termination of the I Party and as to why, he has been terminated. Further, the charge sheeted employees cannot blame the enquiry officer when they themselves are at fault. Also, the said delay has occurred because of the act of the I Party. Further, the I Party cannot say that the delay has been caused, because of all the people. Further, the charge is grave in nature, because airline industry is a highly competitive industry and due to the stiff competition, any delay in flights, would cause loss of customers, more so, in view of the fact that many customers have the connecting flights. Due to the acts of the I Party, the delay of 29 minutes which is nearly half an hour has happened, and thus, causing inconvenience to passengers. As stated earlier there is no rule that enquiry should not be completed in 2 days. In the circumstances, it is prayed to dismiss the reference in the interest of justice.

6. The Pertinent issues/points that arise for consideration in the present matter are as follows:-

- (i) Whether the delay in raising the dispute is fatal and as a result the same is liable for rejection, as contended by the II Party?
- (ii) Whether the action of the II Party/Management in dismissing the service of I Party Shri. Prashant Rao, w.e.f 30.08.2008 is justified and legal?
- (iii) Whether the I Party proves that he is entitled for the relief of reinstatement, continuity of service and consequential benefits and also back wages and to what relief, if any, the I Party is entitled to get?
- (iv) Whether I Party demonstrates that the Enquiry finding being baseless and perverse, necessitating the interference of this tribunal?
- (v) Whether the I Party demonstrates that the punishment imposed against him, is disproportionate to the misconduct alleged, as against him?
- (vi) To what order or Award?

7. Analysis, Discussions and findings with regard to the above mentioned points No. 1 :-

The Government of India, Ministry of Labour, have referred the present dispute for adjudication to this Tribunal, Under Section 10(1)(d) of the ID Act 1947, on 06.07.2009, in Reference No. L-11012/11/2009-IR(CM-I), and thereafter the case has been taken as CR 35/2009 and after the issuance of notice to both sides, orders on domestic enquiry has been passed on 10.04.2012 by ordering that the domestic enquiry conducted by the II Party, as against the I Party, is not fair and proper. Thereafter, both parties have produced evidences and documents on merits. After the careful perusal of material records, the present award is passed. In the above mentioned facts and circumstances, it is found that the present reference is not liable for rejection on the ground of delay in raising the present dispute. Thus, the said point is answered, accordingly.

8. Analysis, Discussions and findings with regard to the above mentioned points Nos. 2 to 5 :-

The I Party has clearly stated in the evidence that he has not admitted that the fuel updation has been wrongly done by him and he has denied all other charges levelled against him, when the enquiry officer read over the charges against him and no negligence has been committed by I Party in updating the fuel of 8 tons instead of 7.5 tons. Infcat, the II Party has specifically admitted that the, I Party has been transferred as Operations Assistant w.e.f 06.04.2001, and he has got 6 years experience as a Flight Operations Assistant by 19.12.2007 namely, on the date of alleged incident. Hence, it is seen that the I Party has got sufficient experience as Flight Operations Assistant. Further, the I Party has clearly stated that there is no specific manual specifying the duties of the flight operations assistant. The II Party has not specifically denied the said statement made by the I Party, and I Party has also admitted that irrespective of the number of flights on the particular shift, he is capable of handling the job. The I Party has denied the suggestion that the job of the I Party is to do the fuel updation, and the change in the fuel updation has been informed to him by MW-1 only and I Party has also denied the suggestion that fuel updation has been done by him. Further, he has also denied the suggestion that on 19.12.2007 he has gone to the cockpit and also argued with the pilot. Further, the I Party has specifically stated in his evidence that his performance has been appraised and increments have been given, by the II Party.

9. The II Party/Management has clearly admitted in the counter statement that, I Party Joined the Organization on 23.10.1999, and from 06.04.2001, he has worked in the flight operation department of the II Party. Further, the II Party/Management has admitted that the I Party has been confirmed in the post of Customer Service Assistant w.e.f 20.07.2000, and at the time of dismissal from service, the salary of the I Party has been fixed at Rs. 21,627/-. Further in the objection to the Rejoinder also the II Party has admitted that only Labour Law would be applicable to the present matter and the list of witnesses need not be given, at the time of issuance of the charge sheet to the I Party. Further, on 30.08.2008, the Senior General Manager(HR) of II Party has issued the dismissal from service of the II Party with

immediate effect, for the I Party. In that, it is specifically pointed out by the Senior General Manager(HR), of II Party that the Captain Ravi Padmanaban namely MW-4, has advised the I Party to keep the fuel figure, in Jetsoft pertaining to Flight No. 486 BLR-MAA dated 19.12.2007 at 7.5 tons. However, the I Party updated the Jetsoft with 8 tons of fuel. The load and trim sheet based on fuel figure has been prepared, and also the trim sheet with 8 tons of fuel. MW-4 Captain Ravi Padmanaban has informed the Ramp staff that the fuel has to be at 7.5 tons and not 8 tons, as appeared in the trim sheet and advised them to prepare a fresh revised trim sheet and, thus, the delay in departure of flight by 29 minutes has happened and the I Party has done the misconduct of Acts of subversive of discipline, Gross Negligence and Neglect of work, according to the II Party/Management. However in the said order itself, it is clearly pointed out that the I Party has denied the Charges levelled against him and thereafter enquiry has been conducted by the II Party. Even in Ex M-70 namely dismissal from service order dated 18.02.2008, the said details of misconduct alleged to be committed by the I Party, has been clearly mentioned.

10. Further, as Ex W-1, I Party has filed certificates issued for successfully completing the Airport Handling Procedures, Telephone Etiquette, Delivering Customer Service Excellence, and Sabie-ACSI Certificates. Further, as Ex W-2, I Party has produced appreciation letter, for I Party's response to his work during crisis period and also for his hard work, willingness, commitment and dedication during II Party's time of need and also I Party has got such appreciation from the Airport Manager on 10.08.2000. Further, as per Ex W-3 series of details of salaries of I Party, it is seen that, I Party's, salary has been periodically increased every year. Also, it is pertinent to point out that as per Ex W-4, the I Party has got 5 years Meritorious Service award from the chairman of the II Party/Management in recognition of I Party's long service. In such circumstances, only, it is rightly pointed out by the I Party, II Party has to establish the alleged misconduct committed by the I Party, as per the principles of preponderance of probability.

11. Further, MW-1 namely Naveen Lal Shah, has clearly admitted that I Party has worked in the Flight Operation department from the year 2001 to the alleged date of incident on 19.12.2007. Hence, it is clear that the I Party has got sufficient experience and also the I Party has received meritorious award for the service from the chairman of the II Party. Further, MW-1 has clearly admitted in the evidence that the engineering staff on the ramp are also responsible. However action for the alleged misconduct has taken as against the I Party alone. On that ground only, the I Party has clearly stated that the II Party has initiated action against the I Party alone, though it is a team work consisting of more persons responsible for the correct fuelling of the said flight. Further, MW-1 has admitted that it takes approximately 15-20 minutes to prepare a manual load and trim sheets, since the wrong load and trim sheets have been prepared and same has been redone which took about 20 minutes. Further, MW-1 has specifically admitted that the pilot has cross checked the figures. Further, the I Party has particularly, denied the suggestion that he entered into an argument with the pilot. Further MW-1 has admitted that I Party has undergone on the job training to become the Operating Assistant and during such time he has put in a lot of effort to help the I Party, and the I Party used to repeat the mistake. Further, MW-1 has clearly admitted that any appointments are made only after technical round of interview. Hence, it is seen that I Party has been appointed, after following the proper rules by the II Party/Management, and letter of appreciation has also been given by the chairman to the I Party. Further, MW-1 has admitted that from the date of joining in 2001, the I Party has technical experience and I Party has cleared 6 DGCA certified technical papers.

12. Further, MW-1 has clearly admitted that on 19.12.2007, 8 tons of departure fuel has been removed by the I Party by following the companies policies of fuelling and that 8 tons of departure fuel has been removed from Airpath system, and 8 tons departure fuel automatically reflected on Jetsoft system. Hence, it is clear that the II Party has not established that the I Party has done the alleged mistake. Further, MW-1 has admitted on the said date of 19.12.2007, MW-1 and I Party alone attended the duty and so it is either MW-1 or I Party who must have released the said flight, with 8 tons departure fuel. Hence, the evidence is also not clear to the effect that, it is I Party alone is responsible for the alleged misconduct. Further, MW-1 has admitted that it is true that flight dispatch attendance register 2007 has revealed that Managers, Assistant Manager, Flight Operations Staff and Dispatchers have worked in Jet Airways Flight Operation at Bangalore. However the said attendance register has not been produced on behalf of II Party. Further MW-1 has specifically admitted he has not made any record of change in the Jetsoft. Further, MW-1 has distinctly admitted that Bangalore Flight Operations has to maintain copy of all technical documents independently. However, the said documents have not been produced to establish the alleged misconduct committed by I Party. Further, MW-1 has truly admitted that he has not personally prepared any manual trim sheet or manual load sheet for any aircraft. Further, MW-1 has admitted that fuelling of aircraft is generally done by the fuelling companies such as IOCL and BPCL and the engineering staff will monitor and on 19.12.2007, (MW-4) Captain Ravi Padmanaban, has instructed to take LMC by the load officer, ramp officer, load and trim officer and the I Party at the same time. Hence, all are responsible for the alleged misconduct happened on the said date. However, the action has been taken against the I Party alone, leaving others without any valid reasons by the II Party. Further, MW-1 has admitted that the structural integrity, even though, it provides 8 tons, and the said 8 tons cannot be filled completely. On that ground also it is seen that the II Party has failed to prove that, I Party has updated Jetsoft with 8 tons of fuel. Also, MW-1 has produced Ex M-71 namely Daily report dated 19.12.2007, and further, MW-1 has stated Ex M-71 is the same as that of Ex M-7,

except with regard to the details of “Error due to usage of waste paper while printing” which includes the address of “Didar Honda, New No. 42, Old No. 110, Egmore High Road, Egmore Chennai-600008, Owner Name: Mr. Farid, Email ID: didarhonda@gmail.com, Amarjith Padman, Manager Flight Operations Jet airways (I) Ltd.” On that ground only I Party has pointed out that II Party has not produced the relevant records to establish the alleged misconduct. Still, MW-1 has not explained about the irrelevant details mentioned in Ex M-7 and Ex M-71 relating to the said Didar Honda Company.

13. Further, Office Memo issued by II Party to I Party has only warned I Party and as per Ex M-23, the huge amount of Rs. 4.3 lakhs has been spent to train the I Party by the II Party/Management. As per the memos of Ex M-32 to Ex M-35 also, only warning has been given. Further, as per Ex M-36 letter has been issued to give explanation only. As per Ex M-37 dated 22.03.2004, I Party has apologised only for mistake regarding the Mel message has not been handed over to the concerned official, on duty. As per Ex M-40, I Party has been only cautioned and advised to improve the attitude and work culture by the II Party. As per Ex M-41, inter office memo dated 10.05.2005, another chance to improve has been given to I Party on behalf of II Party. As per Ex M-42, strongly admonished, to wake up to the situation and perform better, only, issued on behalf of II Party to I Party. As per Ex M-43, dated 16.09.2005, inter office memo, I Party has been advised to show interest in work in the interest of II Party/Management and for I Party’s career growth. As per Ex M-44, Office memo only warning has been given to the I Party. As per memo Ex M-46, dated 22.11.2005, I Party has been instructed to show marked improvement by the II Party. As per Ex M-48, office memo dated 16.01.2007, on behalf of II Party, the Operations Manager-BLR and HR Department has been made to conduct an enquiry into the work culture and attitude of I Party only. As per Ex M-50, dated 31.07.2007, I Party has clearly stated that the II Party has demotivated his career and hence he is giving 3 months notice period to resign. However, as per Ex M-51, dated 02.08.2007, itself, the I Party has issued the letter of withdrawal of his resignation, and in that letter also I Party has stated II Party has demotivated him to resign and however he has withdrawn his resignation. In the office memo of Ex M-52, dated 08.08.2007, only improvement in the attitude and learning process of I Party has been instructed on behalf of II Party. As per Ex M-53, dated 09.08.2007 on behalf of II Party it is clearly pointed out that the I Party has withdrawn his resignation. Further, as per Ex M-57, M-58 and M-59 normal increments have been allowed to I Party. In Ex M-60, Performance Appraisal for the year 2004-2005, it is stated on behalf of II Party, as the good human being. In Ex M-61, it is reported in the appraiser comment that the I Party has shown the appraisable improvement in work culture and attitude on 13.03.2006 by the appraiser in the performance appraisal for the year 2005-2006. Suddenly in Ex M-63, dated 28.04.2008, it is pertinent point out, that is after the alleged incident of 19.12.2007, in the Performance Appraisal of the I Party, it has been mentioned as below target. On that ground only, I Party has specifically stated that unfair Labour practice has been followed by the II Party. In Ex M-65, the accident summary of some other plane, has been shown, and not connected to II Party, and also, the said accident has occurred for the reason of the fuel Exhaustion due to maintenance error. In Ex M-69, namely appeal submitted to the Appellate Authority, it is clearly stated by the I Party that enquiry has been conducted only on 2 days and Captain Ravi Padmanaban has been examined in the absence of I Party on 15.04.2008 by the enquiry officer and also I Party has clearly pointed out that vague allegations have been made on behalf of II Party, and I Party also stated that, when many persons are involved in the said misconduct, the said proceeding as against an individual person, is vindictive and also, it is bad. In the written submission also the II Party has admitted that the I Party has already got 6 years experience as Flight Operation Assistant as on 19.12.2007 namely, on the alleged date of incident.

14. Further, MW 2, D.M. Seethamma has clearly admitted that, she is working as Customer Service Supervisor with the II Party Company for the past 10 years and the said load and trim sheet has been prepared and signed by herself and the same has been sent to the ramp area 15 minutes before the departure of flight to ensure verification by load office and the pilot in command and the load officer will cross check the sheet to ensure that loading is done as per the instructions in the load and trim sheet. On that ground only the I Party has repeatedly submitted that he has only worked as Operation Assistant in the II Party’s Flight Operation Department, and the II Party has taken illegal action against the I Party alone, though there are certain other officers directly involved as per the deposition given by MW-2 D.M.Seethamma. Further, MW-2 has clearly admitted in her evidence that she has prepared the trim sheet with 8000 kgs of fuel as per the fuel figures updated in Jetsoft and sent it to the ramp, and Mr. Varun Suri has acted as load officer and MW-2 has checked the Jetsoft and informed the fuel as 8000 kgs and MW-2 has carried out the changes with 7500 kgs of fuel and also, passengers load of 13 on business class and 113 on the economic class. Further, MW-2 has stated in her deposition that, when she started preparing the fresh load sheet for 7.5 tons, the I Party called her repeatedly which disturbed and distracted her work. However, the said allegation have not been pointed out by II Party in the charge sheet or other material records. Further, MW-2 has admitted that without team work, good interdepartmental co-ordination especially with flight operation department is impossible to clear 35 Jet Airways flight everyday out of Bangalore, and it is true to suggest that, on 19.12.2007 (namely on the alleged date of incident), 17 flights operated from Bangalore to different places. For that reason only I Party reported that, with the team work only flight operation is possible by the II Party/Management and II Party has committed illegality by taking action against I Party alone. Further, MW-2 has clearly admitted that she cannot say whether the load and trim sheet of 8 tons departure fuel on 19.12.2007 has been submitted to Captain Ravi Padmanaban 5 minutes prior to the departure. So, MW-2 evidence also

not specific to the effect that I Party alone is responsible for the wrong updation of the fuel for the said flight. Further, MW-2 has clearly admitted that, it is true to suggest that the load officer of 9W486 dated 19.12.2007 has to sign the manual load and trim sheet, as there is separate block for the signature of the load officer and Varun Suri has acted as the loading officer on 19.12.2007. Further, MW-2 has admitted that it is true to suggest that, even on final load and trim sheet, it has been prepared with 7500 kgs of departure fuel, and corrections are still existing and photocopy of load sheet Ex M-17 is not clear. Therefore, MW-2 has prepared the neat load sheet with 7.5 tons of fuel which is marked as Ex M-18. On the careful perusal, it is seen that, evidence of MW-2 is also not clinching to the effect that I Party alone is responsible for wrong loading of fuel for the said flight on 19.12.2007.

15. Further, MW-3 has admitted that he is working as Manager Flight Operations with II Party and I Party has been confirmed in service on 23.07.2000 itself and MW-3 has also stated that I Party is unable to cope with basic work requirements of an Operation Assistant. But only on 19.12.2007, II Party has taken action against I Party for loading the alleged 8 tons of fuel to the said flight. Further, as earlier pointed out, on the Completion of 5 years of Service with the II Party by the I Party, the Meritorious Service award have been issued by the II Party to the I Party. Further, MW-3 has admitted that he is the only one, supportive to the I Party. Further, MW-3 has stated that only several memos have been issued to I Party, for non-performance and the warning has been issued on 22.04.2003 to the I Party. Further, MW-3 has admitted that I Party has failed to show any improvement and the II Party has been constrained to issue a memo to the I Party on 09.10.2003. If in case the I Party has not shown any improvement, then, the II Party should have initiated appropriate action and not just memo on 19.12.2007 for the alleged misconduct, and also, as against the I Party alone the action has been taken by the II Party, without any valid reason. Further, MW-3 has admitted that for the lack of information from I Party, the heavily loaded trolley has hit the aircraft on 30.03.2004 and also, caused severe damage to the aircraft which has been kept ready for departure with passengers on board. However, for that also, MW-3 has admitted that only memo has been issued to I Party. Again, MW-3 has only stated that on 10.05.2005, Deputy General Manager Flight Operations, has only granted the I Party another chance to improve the performance. Further, MW-3 admitted that on 16.09.2005, the I Party performance has been on low level over the past years, and on 22.11.2005 I Party has been only informed to make remarkable improvement in his work. Further, MW-3 has admitted in his evidence that the Manager Flight Operations has recommended for the acceptance of the resignation of the I Party in the best interest of II Party. However, MW-3 has specifically admitted that, it has been decided to continue the I Party in service. Further, MW-3 has categorically admitted that on 19.12.2007, the I Party wrongly updated the fuel in Jetsoft. Further, MW-3 has also admitted that dismissal of I Party is not based on a single incident, the II Party has been extremely lenient to I Party, even though several grave errors has been committed by the I Party. However, the said grave errors have not been established by the said MW-3 by producing relevant records. Further, MW-3 has admitted that, 4.3 lakhs has been spent to train the I Party, by II Party, with reference to the training of I Party, to become a flight dispatcher. So, it is seen that, adequate training has been given to I Party by II Party. Further, MW-3 has stated, series of errors have been committed by I Party and I Party has created the flight safety hazard. However, the said details have not been substantiated by producing relevant records on behalf of II Party. Further, MW-3 has admitted that Airplane Flight manual is designed by the Airline Operator and also, he has agreed with the suggestion that the Flight Operations staff are exclusively trained on aircraft flight manual and aircraft performance manual, that is, how the I Party can calculate the Max take off weight (MTOW), trip fuel and departure fuel of specific aircraft. Further, MW-3 has admitted that I Party has been transferred from Customer Service department to Flight Operations department and for that, he has been interviewed. Thus, it is seen that I Party has been transferred to Flight Operation Department after, assessing his suitability, and his capability and also necessary training has been given to I Party by spending huge amounts. Further, MW-3 has admitted that complaints against I Party have been made in oral and writing, but the said complaints, in writing, have not been produced before this court. So it is seen that pertinent documents have not been produced by II Party. Further, MW-3 has admitted that there is no certified standing order that the flight information board should update the manual and there is certified standing order that states that Air Defence clearance numbers should be received by the flight operation assistant and a loss of Rs. 2 crores has been caused and enquiry has been made and it has been reviewed that I Party has done the mistake. However, MW-3 has admitted that after 4 days of the incident, the I Party has been only deputed for flight dispatcher training to give an opportunity to him for improvement. When Rs. 2 crores loss has been caused by I Party it is not possible to accept the submission of the MW-3 that I Party has been sent for training and only, a chance is given to the I Party to improve. Again MW-3 has admitted that it has been found, there is no improvement in the performance of the I Party. However, only on 19.12.2007 namely, after, the alleged incident the II Party has taken action and also dismissed the I Party, without the valid reasons and grounds.

16. Further, MW-4 Captain Ravi Padmanabhan, has admitted that, it is true to suggest that on 19.12.2007 (alleged date of incident), Naveen Lal Shah (MW-1) has acted as the Flight Dispatcher on duty and Naveen Lal Shah has briefed him that 8 tons of fuel would be the safe fuel and on 19.12.2007 the I Party recalculated the fuel on the air path system and arrived at the departure fuel of 7.4 tons and he also agreed with the suggestion that manual correction has been done on the original flight plan of 9W486 on 19.12.2007. Hence, the said Captain evidence is also not clear to the

effect that I Party is alone responsible for the alleged mistake that has happened on 19.12.2007. Further, MW-4 has admitted that only when the Captain releases the lock any one can enter the cockpit and MW-4 has clearly admitted that there is no standing orders in the Jet Airways Organization. On this ground also it is found that, II Party has failed to prove that I Party has done the alleged misconduct on 19.12.2007.

17. Further, WW-1 has categorically stated that he has received the salary revision as an appreciation for the continuous service with the II Party's Organization by the letter dated 01.04.2002, and I Party has stated that his dispatcher requirement completion allowance has been enhanced from Rs. 4000/- to Rs. 9000/- per month as per the letter dated 01.07.2006. Further, WW-1 has clearly stated that I Party is the only one victimized and no action has been taken as against the duty officer and others on 19.12.2007 incident, (namely on the alleged date of misconduct), Subsequently, I Party has been dismissed on 30.08.2008. On a careful scrutiny of the materials available on records it is seen that there is significant force in the said submissions, of I Party and the dismissal order dated 30.08.2008 passed by the II Party is not sustainable on facts and also in law. Further, WW-1 has clearly stated that he has never admitted that the fuel updating has been done wrongly by him, and there is no negligence from his part, and I Party has 6 years experience as Flight Operation Assistant and there is no specific manual specifying the duties of the flight operations assistant. Further, inspite of the said specific submission of I Party, the II Party has failed to prove the alleged misconduct done by the I Party in an acceptable manner. Further, WW-1 has clearly denied the suggestion that he has entered into the cabin and flight dispatcher has also seen the I Party, and he has also denied the suggestion that his job is to do the fuel updation and the change in fuel updation has been informed by Naveen Lal Shah flight dispatcher/MW-1 only. Further, WW-1 has specifically denied the suggestion that on 19.12.2007 he has entered into the cockpit and argued with the pilot. Also, WW-1 has clearly stated, that like every other employee, increments have been given to I Party by the II Party. Further, WW-1 has clearly stated that he has no sim card in his name at that time, during the year 2007, and until the service of charge sheet the relationship with the management and I Party are good and he has worked under MW-3 Amarjith Padman and I Party has received the regular increments. Even MW-3 has also not clearly stated that only I Party is responsible for the mistake that has happened on 19.12.2007.

18. Further, in the written arguments filed on behalf of II Party, it is pointed out, that the I Party who has to upload 7.5 tons of fuel figures, made an entry of 8 tons and thus, caused the load and trim sheet to vary and thus endangering the life of the passengers. However, on the careful scrutiny of the Management witness and also materials available on record, it is seen that I Party alone is not directly responsible for making the wrong entry of the fuel figures. Further, in the written submission of II Party it is pointed out that the I Party has committed the misconduct of not heeding to call of the supervisors, making wrong entry, talking on phone when he has to brief the Captain/Pilot. However, it is seen that the II Party has not established the said alleged misconduct committed by the I Party, on the principles of preponderance of probability. Further, it is pointed out in the written submission of II Party that due to wrong entry made by the I Party, it has been taken as 8 tons instead of 7.5 tons. However, MW-2 has admitted that I Party alone is not responsible for the said alleged misconduct. Though the II Party has filed pictorial representation from google (not marked but enclosed for easy understanding) along with the written submission of II Party it is seen that II Party has not proved that I Party alone is responsible for the alleged misconduct. Further, in the written submission II Party it is clearly admitted that I Party has been issued with several memos for his mistakes. If, in fact, the I Party has done several mistakes, then, certainly, the II Party should have taken appropriate disciplinary action and also the necessary consequential follow up action and also the II Party should have granted severe punishment to the I Party. However, the I Party has joined on 23.10.1999 as per the clear cut admission made by the II Party in the counter statement and also, continued his service for several years, without any major punishment till the dismissal order passed on 18.02.2008. Further, on 22.03.2004 also the I Party has been issued with a letter for counselling only to show the better performance in work by the II Party, and on 10.02.2005 also I Party has been given another advisory memo to improve his performance as per the details mentioned in the written submission filed on behalf of the II Party. Further, I Party has categorically stated in his claim statement and also in his evidence that he is not responsible for the alleged misconduct and nothing has been elucidated, materially on behalf of II Party. Further, in the written submission the II Party it is admitted that Ex W-3, are the salary details of the I Party and it is also admitted that on 23.10.1999 itself the I Party joined the II Party and Ex W-9 is the revision of allowance. Further, in the written submission of II Party it is clearly admitted as per the Ex M-23, Rs. 4.3 lakhs has been spent for the training of I Party. Further, in the written submission, of the II Party, it is admitted that as per Ex M-36 explanation has been, asked for, from I Party. However, the nature of follow up action, taken against the I Party has not been explained, in detail, by the II Party. Further, as per Ex M-46 also further performance warning only, has been issued. Further, as per Ex M-51 the I Party has rightly withdrawn the resignation within 2 days. Further, on 17.03.2007, as per Ex M-62 it is pointed out on behalf of II Party that I Party has not utilized the potential to the optimum level. Also, Ex M-65 relates to some other flight accident summary, that took place due to fuel exhaustion.

19. Further, in the citation filed on behalf of II Party reported 2010 11 SCC 557 in the case of Manohar Lal Vs Ugrasen and others, it is held as follows only :- "It is the duty of the I Party to come with not only clean hands but with clean mind, clean heart and clean objective. Court must not be used as an instrument to subvert justice." In the

present case also it is found that II Party has not established that I Party is responsible for the alleged misconduct. Further, in the judgement delivered in the case of Mahindra and Mahindra Ltd. Vs N.B. Narawade, (2005) 3 SCC 134: 2005 SSC (L&S) 361 at page 141, it is observed as follows only:- “The discretion which can be exercised under section 11-A is available only on the existence of certain factors like punishment being disproportionate to the gravity of misconduct so as to disturb the conscience of the court, or the existence of any mitigating circumstances which require the reduction of the sentence, or the past conduct of the workman which may persuade the Labour Court to reduce the punishment.” However, in the present case it is found that II Party has failed to establish that I Party has committed the alleged misconduct. Further, in the judgement delivered in the case of Surjeet Singh Bhamra Vs Bank Of India 2016 SCC vol 1 page 125 @ page 214, it is observed as follows only:- “When the charges stood proved on admission of the Appellant, the bank was justified in imposing punishment on the appellant as prescribed in the Rules. We, therefore, find no ground to interfere in the punishment order as we also find that having regard to the nature and gravity of the charge, the punishment imposed on the appellant appears to be just and proper, calling for no interference therein.” However, in the present case it is seen that II Party has not established that I Party has done the alleged misconduct as per the principles of preponderance of probability. In the judgement filed on behalf of II Party, the case of Kendriya Vidyalaya Sangathan Vs J.Hussain 2013 SCC vol 10 page 106 @ para 7&8, it is observed as follows:- “A host of factors go into the decision making while exercising such a discretion which include, apart from the nature and gravity of misconduct, past conduct, nature of duties assigned to the delinquent, responsibility of duties assigned to the delinquent, previous penalty, if any, and the discipline required to be maintained in the department or establishment where he works, as well as extenuating circumstances, if any exists.” However, in the present case it is seen that II Party has not proved that I Party has done the alleged misconduct and also the nature of responsibility of duties assigned to the I Party. Further, in the case of P.H. Kalyani Vs Air France (AIR 1963 SC 1756), it is observed as follows:- “The charge sheet contained two charges of gross dereliction of duty in as much as the appellant had made mistakes in the preparation of a load-sheet on one day and a balance chart on another day, which mistakes might have led to a serious accident to the aircraft.” However, in the present case the II Party has not established that the said alleged misconduct has been committed by the I Party. Further, in the case of L Michael Vs Johnson pumps Ltd (1975 1 SCC 574), it is observed as follows:- “In light of what we have indicated, it is clear that loss of confidence is often the subjective feeling or individual reaction to an objective set of facts and motivations.” Also, in the case of KSRTC Vs Vittal Rao 2012 SCC vol 1 page 442 @page 453, it is observed as follows:- “Once employer loses confidence-bona fide action confirmed – order is immune from challenge. Reinstatement cannot be granted.” Further, in the judgement reported in 2015 2 SCC 341 @ 344 – (Diwan Singh Vs LIC), it is observed as follows:- “Loss of confidence is the primary factor – sympathy and generosity should not be there.” Also, in the case of Anil Kumar Chakraborty and Anr Vs Saraswatipur Tea Co. Ltd 1982 2 SCC 328, it is observed as follows:- “No reinstatement for a case of loss of confidence. Even if termination is erroneous, only compensation can be granted.” However, in the present case it is seen that II Party has failed to establish that there is high risk to keep the I Party in service and I Party has done the alleged misconduct. Also, in the case of Air India Vs V.A Rebellow – 1972 1 SCC 814 it is observed as follows:- “The opinion formed by the employer about the suitability of his employee for the job assigned to him even though erroneous, if bona fide, is in our opinion final and not subject to review by the industrial adjudication.” However, in the present case the II Party has failed to establish that II Party has assigned the said job to I Party erroneously. Infact, after giving the sufficient training by spending substantial amount by the II Party, the I Party has served for several years with II Party. Also, in the case of Indian Railway Construction Company limited Vs Ajay Kumar reported in 2003 (4) SCC page 579, it is observed as follows:- “It will also be pertinent to mention that victimisation can be said to have occurred only when the charge against the employee is false.” However, in the present case it is seen that the charge as against the I Party has not been established by the II Party, in accordance with law and II Party has not strictly followed the law and there is violation, as such.

20. Further, in the written submission it is pointed out by the II Party, that any act, which is prejudicial to the interest of the company, can be deemed to be a misconduct even though the same has not been stated in the certified or the otherwise rules of the company. However, it is relevant to point out that the entire allegation has not been substantiated before this Court by the II Party and there is no relevant material to dismiss the I Party by the II Party. Further, in the written submission, the II Party has clearly admitted that, ultimately the responsibility of carrying the passenger safely to the destination is on the shoulders of the Captain of the flight. Further, the allegation that the I Party has committed the grave and serious nature of misconduct has not been proved in an appropriate manner, by the II Party. After taking into consideration the entire facts and circumstances of the present case, it is found that, there are no relevant materials on record to substantiate or establish the alleged misconduct committed by the I Party. Further, based on the entire facts, it is seen that I Party cannot be held guilty, for the alleged misconduct. Further, in the written submission of II Party, it is admitted that, Ex M-7 is just the print out of the daily report, which has got the Didar Honda's address. However, the same has not been sufficiently and adequately explained by the II Party. Further, MW-1 has admitted that they won't purchase from outside the papers, for taking photocopies.

21. On a careful perusal of entire materials on record, it is seen that II Party has not proved the alleged misconduct committed by the I Party, as per the principles of preponderance of probability and in the judgement cited on behalf of I Party in the case of Delhi Transport Corpn. Vs D.T.C. Mazdoor Congress and Ors. (1991) Suppl. 1 SCC 600, it is clearly observed as follows:- “It is well settled in law that right to life enshrined under ART.21 of the Constitution would include right to livelihood. The order of illegal termination of the service of the I Party visits with civil consequence of jeopardizing not only livelihood but also puts an end to the career.” In the present case also, I Party in the claim statement as well as in the evidence has clearly pointed out the that, he has got no other source of income after the dismissal of I Party and it has jeopardized not only his livelihood but also his family members. Further, WW-1 has pointed out that, within two days the enquiry has been completed on behalf of II Party. Further, II Party has only pointed out in the written submission as that there is no rule that, enquiry proceedings should not be completed within two days. It is the well settled law that ‘hurried proceeding is the buried proceeding’. On that ground only I Party has clearly stated that, II Party has taken the said disciplinary action, without following the principles of natural Justice and Fairness and reasonableness.

22. Further, the I Party has clearly stated in the claim statement that, enquiry has been conducted in the hurried manner by the II Party, and the I Party has been denied the reasonable opportunity to defend himself. Further, in the counter also II Party has specifically admitted that I Party has been treated as ex-parte and the enquiry has been proceeded and copy of the enquiry proceeding dated 15.04.2008 has been sent to I Party by the II Party, even though the same may not be sent to the I Party, as the I Party has been treated as Ex-parte. Further, in the objection to the rejoinder, the II Party has clearly admitted that, the enquiry officer has tried to contact the I Party through phone and also sent him a message but the I Party has not responded to the call or message. Furthermore, the II Party has admitted that the charge made against the I Party is grave in nature and there is no rule that enquiry should not be completed in two days. Further, on the careful scrutiny of the material records, it is found that I Party has clearly demonstrated the punishment imposed against him is not justified and the punishment imposed against him is illegal. For the above mentioned reasons, it is found that the action of the II Party, by ordering dismissal from the service of I Party is not justified.

23. Now the next question is while ordering reinstatement, what is the relief to be granted to reinstated workmen/I Party? Awarding of reinstatement does not amount to automatic conferment of back wages as held in 2009 (4) LLJ 667 (SC) Malla C.N. Vs State of Jammu and Kashmir & others. Awarding of back wages, depend upon other factors and circumstances. The I Party has pointed out in the claim statement that the I Party has been thrown out of employment and is facing hardship. In the affidavit also, the I Party has stated that with no financial income he is facing great hardship to take care of himself and his parents. However, the claim of the workman that he is entitled for the full back wages, cannot be considered, having regard to fact that the I Party has not performed any work for II Party from 30.08.2008 to till date namely, for more than 8 long years, and also, in order to balance the interest of both the parties, this Court is of the considered opinion that in the facts and situation of the present case, 50% back wages only can be granted to the I Party. Having regard to the facts and circumstances, and long gap from the date of dismissal of I Party, from 30.08.2008 to till date, it is seen that granting of 50% back wages would be adequate. It is well settled by the catena of decisions that labour laws being beneficial pieces of legislation are to be interpreted in favour of the beneficiaries in case of doubts. The II Party cannot make submission in an aprobate or reprobate manner. It is obligatory on the part of the tribunal to consider the entire materials on record and to give a finding on several contentions urged by both the parties. The Tribunal has to discharge its statutory function in terms of the Industrial Dispute Act, based upon the facts and circumstances of the present case only. Further, it is also evident, from the close reading of the facts and situations mentioned above, that the I Party is not entitled to get the full reliefs, as prayed for in the claim statement. Further, WW-1 has stated that he has been disqualified from seeking employment and he is facing great hardship and is livelihood is arbitrarily taken away due to the said illegal dismissal. Further, the I Party has clearly pointed out in the claim statement that he has got no source of income because of the dismissal from service by the II Party and the I Party is undergoing, the financial hardship. At the same time it is seen that from the date of dismissal on 30.08.2008 to till date for more than 8 long years the I Party has not served with the II Party. In the light of the above mentioned facts and situations, this Court is awarding 50% back wages from the date of order of dismissal, on the careful appreciation of the submissions made in the statements, and also, the oral and documentary evidences adduced by both the Parties and I Party is ordered to be reinstated with the benefit of continuity of service and other consequential benefits that he would have received in the absence of the impugned penalty of removal from service, but with 50% of backwages. However, the workman/I Party is entitled for continuity of service for the other purposes. For the above mentioned facts and circumstances and situation, it is found that the I Party/Workman is entitled for reinstatement, with benefit of continuity of service and other consequential benefits that he would have received, in the absence of the impugned penalty of removal from service, but with back wages of 50%, for the above mentioned peculiar reasons. There shall be continuity of service. Thus, the points are answered, accordingly.

AWARD

The II Party is not justified in imposing the punishment of dismissal from service on I Party/Sh. Prashant Rao and the said Party is directed to reinstate I Party with the benefit of continuity of service and other consequential benefits that he would have received in the absence of the impugned penalty of dismissal from service, but with 50% back wages, and the present reference is ordered accordingly, without costs, for the above mentioned peculiar facts and special circumstances of the present matter.

(Dictated, transcribed, corrected and signed by me on 13th January, 2017).

V. S. RAVI, Presiding Officer

List of Witness on the side of I Party :

WW1	Prashant Rao, I Party
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List of Witness on the side of II Party :

MW1	Naveen lal Shah, Assistant Manager
MW 2	D.M.Seethamma, Customer Service Supervisor
MW 3	Amarjith Padman, Manager-Flight Operations
MW 4	Captain Ravi Padmanabhan, Former Senior Commander

Exhibits marked on behalf of I Party

Exhibits	Date	Description of Document
Ex W-1	March, August 2000, February 2001	Details of the training completed by the I Party (Series)
Ex W-2	10.08.2000	Letter issued to I Party by Airport Manager
Ex W-3		Salary revision letter pertaining to I Party (series)
Ex W-4		Completion of 5 years of Meritorious service by I Party
Ex W-5	29.03.2004	Flight Dispatch training Intimation
Ex W-6	02.09.2005	Training Intimation
Ex W-7	26.10.2005	Letter
Ex W-8	31.01.2006	Sanction of dispatcher Allowance
Ex W-9	01.07.2006	Revision of Allowance
Ex W-10	14.08.2008	Letter issued by Assistant Labour Commissioner
Ex W-11		Marks Cards
Ex W-12	10.05.2007	Assigned to work under Mr. Naveen Lal Shah
Ex W-13	05.09.2007	Withdrawal of flight dispatcher allowance w.e.f 01.09.2007
Ex W-14	17.11.2008	Email Communication
Ex W-15	20.11.2008	Postal Cover

Exhibits marked on behalf of II Party

Exhibits	Date	Description of Document
Ex M-1	24.04.1992	Civil Aviation Requirements details
Ex M-2	06.08.1993	Civil Aviation Requirements details
Ex M-3	21.06.1993	DGCA Air Safety Circular 5 of 1993
Ex M-4	23.04.1959	Air Craft Rules, 1937
Ex M-5	28.04.1992	Civil Aviation Requirements details
Ex M-6	11.09.2007	DGCA Air Safety Circular 3 of 2007
Ex M-7	19.12.2007	Extract of Daily Report
Ex M-8	19.12.2007	Extract of E-log picture cover No.20
Ex M-9	19.12.2007	Extract of JETSOFT Fuel Sheet
Ex M-10	10.12.1992	DGCA Circular No.28 of 1992
Ex M-11	05.07.2007	Flight Dispatch Manual, Version VI.5
Ex M-12	01.05.2006	Flight Dispatch Manual, Version VI.1
Ex M-13	13.08.2007	Letter
Ex M-14		Performance Appraisal for 2006-2007
Ex M-15	28.04.2008	Performance Appraisal for 2007-2008
Ex M-16		Load and Trim License of Ms Seethamma
Ex M-17	19.12.2007	Load Sheet of 9W 486
Ex M-18	02.01.2013	Load Sheet
Ex M-19	22.08.2007	Trim Sheet
Ex M-20	22.08.2007	Trim Sheet
Ex M-21	27.11.2007	Mail by Ramp Manager
Ex M-22	08.02.2008	Mail approval of DAW
Ex M-23	28.03.2014	Letter of Expenditure borne by company
Ex M-24	23.10.1999	Application for Employment
Ex M-25	20.10.1999	Appointment letter
Ex M-26	23.04.2000	Extension of probationary period
Ex M-27	17.07.2000	Confirmation letter of Employment
Ex M-28	28.06.2000	Training/Probation Report
Ex M-29	04.04.2001	Transfer letter
Ex M-30	08.05.2000	Training/Probation Report
Ex M-31		Requisition for transfer
Ex M-32	22.04.2003	Inter Office Memo
Ex M-33	30.07.2003	Inter Office Memo
Ex M-34	09.10.2003	Inter Office Memo
Ex M-35	19.11.2003	Inter Office Memo
Ex M-36	19.03.2004	Inter Office Memo
Ex M-37	22.03.2004	Apology letter to Flight operations Manager
Ex M-38	22.03.2004	Reply to the letter

Ex M-39	01.04.2004	Inter Office Memo
Ex M-40	08.09.2004	Inter Office Memo
Ex M-41	10.05.2005	Inter Office Memo
Ex M-42	11.05.2005	Inter Office Memo
Ex M-43	16.09.2005	Inter Office Memo
Ex M-44	24.05.2005	Inter Office Memo
Ex M-45	27.06.2005	E-mail details
Ex M-46	22.11.2005	Inter Office Memo
Ex M-47	23.12.2006	Inter Office Memo
Ex M-48	16.01.2007	Inter Office Memo
Ex M-49		Reference to the Complaint
Ex M-50	31.07.2007	Resignation of I Party
Ex M-51	02.08.2007	Withdrawal of Resignation
Ex M-52	08.08.2007	Inter Office Memo
Ex M-53	09.08.2007	Acceptance of Resignation
Ex M-54	08.08.2007	Letter
Ex M-55	28.01.2008	Inter Office Memo
Ex M-56	05.09.2007	Allowance Withdrawn
Ex M-57	14.03.2002	Annual Performance Review for 2001-2002
Ex M-58	17.02.2003	Annual Performance Review for 2002-2003
Ex M-59	16.03.2004	Annual Performance Review for 2003-2004
Ex M-60	10.03.2005	Performance Appraisal for 2004-2005
Ex M-61	13.03.2006	Performance Appraisal for 2005-2006
Ex M-62	17.03.2007	Performance Appraisal for 2006-2007
Ex M-63	28.04.2008	Performance Appraisal for 2007-2008
Ex M-64	28.07.1997	Civil Aviation Requirements Section 7
Ex M-65	23.07.1983	Accident Summary
Ex M-66		Annexure – A to Affidavit of MW 5
Ex M-67	27.09.2009	Annexure – B to Affidavit of MW 5
Ex M-68		Conditions of Employment
Ex M-69		Appeal submitted to the Appellate Authority
Ex M-70	18.02.2008	Order of Dismissal
Ex M-71	16.11.2016	Daily report

नई दिल्ली, 30 जनवरी, 2017

का.आ. 258.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 660/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-41012/60/98-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 258.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 660/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 30.01.2017.

[No. L-41012/60/98-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 2nd December, 2016

Reference: (CGITA) No. 660/2004

1. The General Manager,
Western Railway, Head Quarter Building,
Churchgate,
Mumbai - 400001
2. The Divisional Railway Manager,
Western Railway, Baroda Division,
Pratapnagar, Baroda (Gujarat) - 390004
3. The Sr. Divisional Electrical Engineer (TRS),
Electric Loco Shed, Nava Yard,
Baroda (Gujarat) - 390001

...First Party

V/s

Mr. Bharatsinh P.
C/o General Workmen's Union,
Sinduri Mata Devasthan, S.T. Gara Road,
P.O. Godhra (Gujarat) - 389001

...Second Party

For the First Party : Shri K.J. Parikh

For the Second Party : Shri J.K. Ved

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/60/98-IR(B-I) dated 30.12.1998 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Western Railway through General Manager, Mumbai and other officers in terminating the services of Shri Bhaarasinh P. by way of removal from the services with immediate effect is legal, proper and justified?”

And

“Whether the Penalty/punishment of removal from service is proportionate to the gravity of offence? If not, to what relief the concerned workman Shri Bharatsinh P. is entitled to and what directions are necessary in the matter?”

1. The reference dates back to 30.12.1998. Both the parties submitted their statement of claim or written statement as well as lead their evidence but on 02.12.2016, the second party workman's representative Shri J.K. Ved requested to withdrew the dispute with the condition to file fresh application.
2. Thus the reference is dismissed as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 259.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 06/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-41011/124/2010-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 259.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 06/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 30.01.2017.

[No. L-41011/124/2010-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 30th December, 2016

Reference: (CGITA) No. 06/2012

1. The General Manager,
Western Railway, Churchgate,
Mumbai
2. The Divisional Railway Manager,
Western Railway, Bhavnagar Para,
Bhavnagar (Gujarat)
3. The Chairman,
Railway Recruitment Board,
New Delhi

...First Party

V/s

The General Secretary,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park,
Behind Chandkheda Railway Station, Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party :

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/124/2010-IR(B-I) dated 27.12.2011 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Union, Paschim Railway Karmachari Parishad, for appointment of Shri Suresh K. Vaishnav whose name is included in the panel of selected candidates in Railway Board’s letter No. RECT/54/IV/96-97-98 dated 03.10.96, is legal and justified? To what relief the union/workman is entitled?”

1. The reference dates back to 27.12.2011. The reference has not been pressed by the second party.
2. Therefore, the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 260.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 01/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-41011/75/2011-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 260.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 30.01.2017.

[No. L-41011/75/2011-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 30th December, 2016

Reference: (CGITA) No. 01/2012

1. The Divisional Railway Manager,
Western Railway, Near Chamunda Bridge, Asarwa,
Ahmedabad (Gujarat)
2. The General Manager,
Western Railway, Churchgate,
Mumbai
3. The Sr. Divisional Mechanical Engineer,
Diesel Shed, Western Railway, Vatva,
Ahmedabad (Gujarat)

...First Party

V/s

The Divisional President,
Paschim Railway Karmachari Parishad,
100/B, Railway Colony Vatva,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri H.B. Shah

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/75/2011-IR(B-I) dated 28.12.2011 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Divisional Railway Manager, Western Railway, Ahmedabad, in not granting promotion to Shri Sanjiv Kumar L. Nai as JE-II in spite of his name appearing in the list of 8 passed candidates is legal and justified? To what relief the Union/Workman is entitled?”

1. The reference dates back to 28.12.2011. The reference has not been pressed by the second party.
2. Therefore, the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 261.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 113/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-41011/42/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 261.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 113/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 30.01.2017.

[No. L-41011/42/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 25th November, 2016

Reference: (CGITA) No. 113/2012

1. The Chief Engineer (TMC),
Western Railway, Churchgate,
Mumbai
2. The Dy. Engineer (TMC),
Western Railway,
Valsad (Gujarat)

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Kothi,
Baroda (Gujarat) – 390001

...Second Party

For the First Party : Shri M.N. Pandit

For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/42/2012-IR(B-I) dated 30.07.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Union, Paschim Railway Karmachari Parishad for the payment of wages for the period from 28.11.1979 to 19.07.1984 and fix the seniority, to give promotion for the post of M.C.F. or Junior Engineer to Shri Salim I. before his juniors were promoted is legal and justified? To what relief Mr. Salim I. is entitled?”

1. The reference dates back to 30.07.2012. The second party The Divisional Secretary, Paschim Railway Karmachari Parishad, Shastri Pole, Kothi, Baroda, vide his statement of claim Ext. 5 stated that he was initially appointed as casual labour on 05.12.1977. He was granted temporary status on 13.04.1978. His services were illegally and arbitrarily terminated by the first party on 29.11.1979. He made number of representations to the first party for favourable consideration. The first party management agreed him to pay wages from 28.11.1979 to 07.05.1981. He was subjected to screening test on 07.05.1981 wherein he was declared as unsuccessful without showing any proper and cogent reasons. Thereafter he was permitted to resume duty on 19.07.1984 since then he has been working continuously and uninterruptedly without any break. He further stated that he was again subjected to screening test on 21.01.1991 wherein he was suitable for the post of Khalasi. After resuming duty on 18/19.07.1984, first party employer granted him temporary status w.e.f. 22.11.1984 which was against the service rules. He was initially granted temporary status on 13.07.1978 therefore, granting temporary status on 22.11.1984 was illegal and against rules and the provisions of the Industrial Disputes Act, 1947. Same is required to be set aside and quashed and be granted all the benefits from the date of his illegal termination on 29.11.1979 to 18/19.07.1984. Thus he has prayed as shown in the schedule of the reference. The second party submitted numbers of documents on 04.10.2013 vide Ext.6 in support of the statement of claim.

2. Since 04.10.2013, rather earlier to it, when the second party submitted the statement of claim on 01.02.2013, the first party employer has not submitted the written statement. The second party on 22.12.2013 moved an application Ext. 7 to close the opportunity of filing written statement by the first party. My predecessor on 27.02.2013, passed an order that the first party is to file written statement on 27.02.2014 but on 27.02.2014 and even thereafter, the first party did not prefer to file the written statement despite the fact that the first party was served by registered notice on 17.02.2012 and his advocate Mukesh Pandit submitted his vakalatpatra Ext. 4 on 01.02.2013. Therefore, on 15.07.2016, the tribunal ordered to proceed ex parte against the first party as the first party failed to file the written statement even after giving a last opportunity on 15.07.2016 even after a lapse of more than 3 years.

3. On 05.08.2016, the case was fixed for ex parte hearing. The second party workman Salim submitted his affidavit/examination in chief Ext. 8 in support of his statement of claim.

4. Thus in the absence of written statement and evidence in rebuttal, the affidavit/examination in chief Ext. 8 is believable and the question framed in the reference is decided in favour of the second party workman.

5. Thus the reference is disposed of with the observation as under: “the demand of the Union, Paschim Railway Karmachari Parishad for the payment of wages for the period from 28.11.1979 to 19.07.1984 and fix the seniority, to give promotion for the post of M.C.F. or Junior Engineer to Shri Salim I. before his juniors were promoted is legal and justified and the first party management is directed to pay the wages from 28.11.1979 to 19.07.1984 with all necessary service benefits including seniority and promotions. He will be placed in the seniority just above the person who was immediate junior to him.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 262.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 652/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-41012/63/97-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 262.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 652/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 30.01.2017.

[No. L-41012/63/97-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 30th December, 2016

Reference: (CGITA) No. 652/2004

1. The Divisional Railway Manager,
Western Railway, Pratapnagar,
PO Vadodara (Gujarat) – 390004
2. The Sr. DEN (E),
Western Railway, Pratapnagar,
PO Vadodara (Gujarat) – 390004
3. The Asstt. Engineer,
Western Railway, Pratapnagar,
Baroda (Gujarat)

...First Party

V/s

Shri Amda Kaloo,
C/o Jitendra K. Ved, General Workmen Union,
S.T. Nagar Road, Sinduri Mata Devasthan,
PO Godhra,
Panchmahal (Gujarat) – 389001

...Second Party

For the First Party : Smt. K.J. Parikh

For the Second Party : Shri J.K. Ved

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/63/97-IR(B-I) dated 08.10.1997 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Railway Administration through the General Manager, Mumbai; The Divisional Railway Manager, Western Railway, Pratapnagar, Baroda; The Sr. DEN (E), Pratapnagar, Baroda; The Asstt. Engineer, Pratapnagar, Baroda in terminating the services of Shri Amda Kaloo, Godhra w.e.f. 24.04.1993 is legal and justified? If not to what relief the said workman is entitled to?”

1. The reference dates back to 08.10.1997. The second party submitted the statement of claim Ext. 3 on 09.02.1998 along with documents. The first party submitted the written statement Ext. 9 on 10.07.2000. Since then the second party has been absent and has also refrained to lead evidence. It is also noteworthy that on 29.12.2015, the second party was given in-absentia a last opportunity to lead evidence on 09.05.2016. But thereafter on 09.05.2016 and again on 23.09.2016 and lastly today on 30.12.2016, the second party has been absent. Thus it appears that the second party is not willing to prosecute the reference.

2. Therefore, the reference is disposed of in the absence of the second party with the observation as under: “the action of the management of Railway Administration through the General Manager, Mumbai; The Divisional Railway Manager, Western Railway, Pratapnagar, Baroda; The Sr. DEN (E), Pratapnagar, Baroda; The Asstt. Engineer, Pratapnagar, Baroda in terminating the services of Shri Amda Kaloo, Godhra w.e.f. 24.04.1993 is legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 263.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 55/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-41011/20/2011-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 263.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 55/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 30.01.2017.

[No. L-41011/20/2011-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 2nd December, 2016

Reference: (CGITA) No. 55/2011

1. The Chief Engineer (TMC),
Western Railway, Churchgate,
Mumbai
2. The Executive Engineer (TMC),
Western Railway, C/o Divisional Railway Manager,
Near Chamunda Bridge, Asarwa,
Ahmedabad (Gujarat)

...First Party

V/s

The President,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park, B/h Chandkheda Railway Station,
Sabarmati,
Ahmedabad (Gujarat) – 380005

...Second Party

For the First Party :

For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/20/2011-IR(B-I) dated 17.06.2011 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Chief Engineer (TMC), Western Railway, Mumbai in not correcting the seniority list dated 09.05.2008 of Technicians and filling up the vacant post on that basis is legal and justified? To what relief the Union is entitled?”

1. The reference dates back to 17.06.2011. Second party submitted the statement of claim Ext. 5 on 25.02.2013. First party did not submit the written statement. The case was ordered to proceed ex parte against the first party but on 02.12.2016, Shri R.S. Sisodia, The President, Paschim Railway Karmachari Parishad, 28/B, Narayan Park, B/h Chandkheda Railway Station, Sabarmati, Ahmedabad did not press the dispute and also requested to withdraw the reference.
2. Thus the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 264.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 47/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-41011/108/2011-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 264.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 47/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 30.01.2017.

[No. L-41011/108/2011-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 29th November, 2016

Reference: (CGITA) No. 47/2012

1. The Sr. Divisional Engineer (HQ),
Western Railway,
Near Chamunda Bridge,
Asarwa,
Ahmedabad (Gujarat)
2. The Chief Engineer (P),
Western Railway,
Churchgate,
Mumbai

...First Party

V/s

The President,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park,
Behind Chandkheda Railway Station,
Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri Rajesh Singh

For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/108/2011-IR(B-I) dated 02.02.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Union, Paschim Railway Karmachari Parishad for grant of promotion to Shri Jagdish R. Rajput by adding the benefit of service rendered by him as Gangman, protect his pay and payment of reduced pay as arrears and payment of officiating pay for the higher post on which he has worked, is legal and justified? To what relief the workman is entitled?”

1. The reference dates back to 02.02.2012. The second party submitted the statement of claim Ext. 3 on 20.04.2012 alleging that he was initially appointed as Gangman on 10.06.1976. He continuously and uninterruptedly worked till 1982 but the first party employer did not pay the allowance as per the service rules. Therefore, he moved a recovery application no. 1928 of 1982 before the competent court which allowed the application and ordered the first party employer to pay Rs.4226/- to the second party workman. The said order was complied by the first party employer. He further alleged that an advertisement was made to fill up the vacant post in the electricity department of the first party employer in the year 1985. He was also given option. Therefore, he was also transferred in the electricity department in 1985 but his salary was reduced from higher level to low level on the ground that he was appointed as a fresh employee in the electricity department despite the fact that he was a departmental candidate. The first party employer did not consider his past service as continuous in service from 10.06.1976 to 1995. He was also not paid officiating allowance of lineman. He made a representation but to no result. Therefore, he has prayed for grant of the benefit of continuous from the date of initial appointment and to direct the employer to pay officiating pay and difference of wages from 1997 to 2011.
2. The first party despite giving number of opportunity to submit written statement did not prefer to file the same. Though the advocate for the first party submitted his vakalatpatra on 10.05.2012. On 31.12.2015, first party was given last opportunity to submit written statement but to no result. Therefore, on 20.09.2016, the case was ordered to proceed exparte against first party. The second party submitted his affidavit Ext. 5 on 29.11.2016 reiterating the facts given in the statement of claim.
3. The evidence of the second party is unrebutted, therefore, is believable. Thus the issue raised in the reference is disposed of with the observation as under: “the demand of the Union, Paschim Railway Karmachari Parishad for grant of promotion to Shri Jagdish R. Rajput by adding the benefit of service rendered by him as Gangman, protect his pay and payment of reduced pay as arrears and payment of officiating pay for the higher post on which he has worked, is legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 265.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 61/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-41011/16/2004-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 265.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 61/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 30.01.2017.

[No. L-41011/16/2004-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 2nd December, 2016

Reference: (CGITA) No. 61/2005

1. The Divisional Railway Manager,
Western Railway, Kalupur, Ahmedabad (Gujarat)
2. The Divisional Railway Manager,
Western Railway, Pratapnagar, Baroda (Gujarat)
3. The General Manager,
Western Railway, Churchgate,
Mumbai

...First Party

V/s

The General Secretary,
Railway Workers Union, 7, Mahudi Mahavir Society,
D Cabin, Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri Rakesh Kumar P. Sharma

For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/16/2004-IR(B-I) dated 28.07.2005 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the General Secretary, General Workers Union, Ahmedabad for regularization and absorption of Sh. J.J. Thakar, Bill Clerk and Sh. S.M. Makwana, Grinder by the management of General Manager, Western Railway, Mumbai and others without having minimum qualification is justified and legal? If so, what relief the workmen are entitled to?”

1. The reference dates back to 28.07.2005. The second party submitted the statement of claim Ext. 5 on 30.12.2005 and the first party submitted the written statement Ext. 8 on 01.02.2007. Since then the second party has been absent on most of the dates and has also not preferred to lead evidence.
2. Thus it appears that the second party is not willing to prosecute the case. Therefore, the reference is disposed of in the absence of the evidence of the second party with an observation as under: “the demand of the General Secretary, General Workers Union, Ahmedabad for regularization and absorption of Sh. J.J. Thakar, Bill Clerk and Sh. S.M. Makwana, Grinder by the management of General Manager, Western Railway, Mumbai and others without having minimum qualification is not justified and legal.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 266.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 62/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-41012/152/2004-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 266.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 62/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 30.01.2017.

[No. L-41012/152/2004-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 2nd December, 2016

Reference: (CGITA) No. 62/2005

The Divisional Railway Manager,
Western Railway,
Railway Pura,
Kalupur,
Ahmedabad (Gujarat)

...First Party

V/s

Shri U.H. Rawal,
C/o General Secretary,
Paschim Railway Karmachari Parishad,
E/209, Sarvottam Nagar,
Sabarmati,
Ahmedabad (Gujarat) – 380005

...Second Party

For the First Party : Shri H.B. Shah

For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/152/2004-IR(B-I) dated 27.07.2005 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of the D.R.M., Western Railway, Ahmedabad by awarding the penalty of compulsory retirement to Shri U.H. Raval and subsequently reduction by one grade below i.e. as Head Clerk at the minimum of basic pay for a period of three years without future effect and not ensuring the joining as per the revised orders is legal and justified? If not what relief the workman is entitled to and to what extent?”

1. The reference dates back to 27.07.2005. The second party submitted the statement of claim Ext. 4 on 12.12.2005 and the first party submitted the written statement Ext. 8 on 16.07.2010. The second party submitted the affidavit/examination in chief Ext. 9 of witness Rupender H. Raval on 12.08.2016 who was cross-examined by the court on the same day as none responds for the first party. The witness in his cross-examination by the court admitted that on the date of compulsory retirement on 01.08.2000, his basic pay was Rs.6500/- with more than 50% dearness allowance. On the said date he was receiving more than Rs.10000/- as total emoluments. He has also stated in his examination chief that he had been working as Assistant Station Master. Here it is necessary to clarify that Section (2)(s) defined the definition of the Industrial Disputes Acts, which says that any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person –

(i). -----

(ii). -----

(iii). Who is employed mainly in a managerial or administrative capacity; or

(iv). Who, being employed in a supervisory capacity, draws wages exceeding (ten thousand rupees) per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

2. In this case, the workman is an Assistant Station Master/Head Clerk drawing more than Rs. 1000/- as salary and also a supervisory post as the head clerk used to supervise the working of the clerks working under him. Thus in the light of the provisions of Section (2)(s), the second party cannot be said to be a workman, therefore, the dispute cannot be raised before this tribunal. His grievance can be addressed by the appropriate forum that is the Central Administrative Tribunal.

3. The reference is disposed of in the light of the aforesaid observations.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 267.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 105/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-41011/13/2013-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 267.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 105/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 30.01.2017.

[No. L-41011/13/2013-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 23rd December, 2016

Reference: (CGITA) No. 105/2013

1. The Divisional Railway Manager,
Western Railway,
Near Chamunda Bridge, Asarwa,
Ahmedabad (Gujarat)

2. The Jackson,
Co-Operative Society Ltd.,
At. : Asarwa,
Ahmedabad (Gujarat)

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
100/B, Railway Colony, Vatva,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri Mangal Solanki

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/13/2013-IR(B-I) dated 17.05.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Divisional Secretary, Paschim Railway Karmachari Parishad, Ahmedabad against the Divisional Railway Manager, Western Railway, Ahmedabad to get the settlement dues of deceased workman, Late Shri Jay Kumar, D/Mech-Sr. DME(DL), Vatva by his daughters, Ms. Sandhya and Ms. Gita are legal, fair and justified? If so, then what relief Ms. Sandhya and Ms. Gita, the daughters of deceased workman Late Shri Jay Kumar, D/Mech-Sr. DME(DL), Vatva are entitled to?”

1. The reference dates back to 17.05.2013. The second party submitted the statement of claim Ext. 4 on 27.12.2013 along with an application Ext. 6 under Section 10(iv) of the Industrial Disputes Act, 1947, which was disposed of on 13.05.2014 with the observation that the party shall maintain his status quo.
2. The first party submitted the written statement Ext. 10 along with the reply Ext. 11 to the application Ext. 6 under Section 10(iv) of the Industrial Disputes Act, 1947.
3. The then Presiding Officer disposed of the application Ext. 6 on 27.11.2014 and fixed the matter for hearing on the maintainability of the reference. Since then, neither of the parties has been appearing for hearing on the maintainability of the reference.
4. Thus it appears that the second party has no willingness to prosecute the reference.
5. Thus the reference is disposed of with the observation that the reference is not maintainable and the second party has no right to claim the settlement dues of the deceased workmen Late Shri Jay Kumar, D/Mech-Sr. DME(DL), Vatva.
6. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 268.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 366/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-41012/210/2000-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 268.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 366/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 30.01.2017.

[No. L-41012/210/2000-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 23rd December, 2016

Reference: (CGITA) No. 366/2004

1. The Divisional Railway Manager,
Western Railway,
Kothi Compound, Rajkot (Gujarat) – 360001
2. The Divisional Commercial Manager,
DCMI (MG), Western Railway,
Ahmedabad Railway Station,
Ahmedabad (Gujarat) – 380001
3. The Commercial Inspector (MI), MG,
Western Railway, Ahmedabad – 380002

...First Party

V/s

The Org. Secretary,
Asso. Of Rly, & Post Employees,
15, Shashi Apartments, Nr. Old Anjali Cinema, Vasna Road,
Ahmedabad (Gujarat) – 380007

...Second Party

For the First Party : Shri H.B. Shah

For the Second Party : Shri R.C. Pathak

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/210/2000-IR(B-I) dated 11.01.2001 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of the Western Railway of Rajkot Division in denying regularization to Shri Babubhai H. Chauhan, Khallasi is legal and justified? If not, then to what relief the concerned workman is entitled to and from which date?”

1. The reference dates back to 11.01.2001. The second party submitted the statement of claim Ext. 3 on 11.07.2001 along with vakalatpatra Ext. 4 and number of documents Vide list Ext. 5. The first party did not submit the written statement despite an expiry of 15 years from the date of reference. Hence the case is taken up as exparty but second party has also been absent since last several dates to lead evidence. Thus it appears that the second party has no willingness to prosecute the case.

2. Thus the case is finally disposed of in the absence of the evidence of the second party with the observation as under: “the action of the management of the Western Railway of Rajkot Division in denying regularization to Shri Babubhai H. Chauhan, Khallasi is legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 269.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 106/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-41011/12/2013-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 269.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 106/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 30.01.2017.

[No. L-41011/12/2013-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 23rd December, 2016

Reference: (CGITA) No. 106/2013

The Divisional Railway Manager,
Western Railway,
Near Chamunda Bridge, Asarwa,
Ahmedabad (Gujarat)

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park, Behind Chandkheda Railway Station,
Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri Mangal Solanki

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/12/2013-IR(B-I) dated 17.05.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Divisional Secretary, Paschim Railway Karmachari Parishad, Ahmedabad against the Divisional Railway Manager, Western Railway, Ahmedabad 1. To transfer back from Himatnagar to Ahmedabad to Shri Sudhir S. Parmar, O.S. 2. Not to transfer Shri Ranchhod D.T./Porter, Asarwa to out of Asawa and 3. To refix the pay of Shri M.N. Pathan as earlier dated from 01.04.1995 to 16.01.2012 and cancel the memo No. EC/773/1/ADI dated 16.01.2012 of DRM, W.R., Ahmedabad are legal and justified? If so, then to what relief the above workmen are entitled to?”

1. The reference dates back to 17.05.2013. Since then the second party has not submitted the statement of claim. On 18.12.2015, the second party was given last opportunity to submit the statement of claim by 27.09.2016 failing which it was ordered that the reference shall be disposed of as per law but to no result. On 27.04.2016 and 02.09.2016, further opportunities were granted to submit the statement of claim but second party did not pay any heed. Thus it appears that the second party has no willingness to prosecute the reference.

2. Thus the reference is disposed of with the observation as under: “the demand of the Divisional Secretary, Paschim Railway Karmachari Parishad, Ahmedabad against the Divisional Railway Manager, Western Railway, Ahmedabad 1. To transfer back from Himatnagar to Ahmedabad to Shri Sudhir S. Parmar, O.S. 2. Not to transfer Shri Ranchhod D.T./Porter, Asarwa to out of Asawa and 3. To refix the pay of Shri M.N. Pathan as earlier dated from 01.04.1995 to 16.01.2012 and cancel the memo No. EC/773/1/ADI dated 16.01.2012 of DRM, W.R., Ahmedabad are not legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 270.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 107/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-41011/03/2013-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 270.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 107/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 30.01.2017.

[No. L-41011/03/2013-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 23rd December, 2016

Reference: (CGITA) No. 107/2013

1. The Divisional Railway Manager,
Western Railway,
Pratap Nagar,
Baroda (Gujarat) – 390004

2. The General Manager,
Western Railway,
Churchgate, Mumbai

...First Party

V/s

The President,
General Workmen's Union,
Sinduri Mata Devasthan, S.T. Nagar Road,
P.O. Godhra, Godhra (Gujarat) – 389001

...Second Party

For the First Party :

For the Second Party : Shri J.K. Ved

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/03/2013-IR(B-I) dated 21.05.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the union for compassionate appointment to Shri Hareshbhai Somabhai Chauhan S/o (Late) Shri Soma Chauhan is legal, proper and just? If so, to what relief Shri Hareshbhai Somabhai Chauhan is entitled to?”

1. The reference dates back to 21.05.2013. On behalf of the second party, Shri J.K. Ved, the President of General Workmen's Union, did not press the reference and request to withdraw the reference.
2. Hence the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 271.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 85/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-41011/19/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 271.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 85/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 30.01.2017.

[No. L-41011/19/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 8th December, 2016

Reference: (CGITA) No. 85/2012

1 The Chief Works Manager,
Engineering Workshop,
Western Railway, Sabarmati,
Ahmedabad (Gujarat)

2. The Chief Engineer (Works),
Western Railway, Churchgate,
Mumbai

...First Party

V/s

The President,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park,
Behind Chandkheda Railway Station,
Ahmedabad (Gujarat) – 382472

...Second Party

For the First Party : Shri Rajesh Singh Thakor

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/19/2012-IR(B-I) dated 16.05.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Union, Pashchim Railway Karmachari Parishad for promotion of Shri Ashok Kumar M. to the post of Material Collector Gr. II w.e.f. 13.06.2006 is legal and justified? To what relief the workman is entitled?”

1. The reference dates back to 16.05.2012. Both the parties were served with the registered notice. The second party union requested to withdraw the reference and expressed unwillingness to prosecute the case.
2. The reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 272.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 95/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-41011/26/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 272.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 95/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 30.01.2017.

[No. L-41011/26/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 8th December, 2016

Reference: (CGITA) No. 95/2012

1 The General Manager,
Western Railway, Churchgate,
Mumbai

2. The Chief Works Manager,
Engineering Workshop,
Western Railway, Sabarmati,
Ahmedabad (Gujarat)

...First Party

V/s

The President,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park,
Behind Chandkheda Railway Station,
Ahmedabad (Gujarat) – 382472

...Second Party

For the First Party : Shri Rajesh Singh Thakor

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/26/2012-IR(B-I) dated 21.05.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Union, Pashchim Railway Karmachari Parishad, Ahmedabad for promoting of Shri Ashok Kumar M. as Material Collector Grade-II as per circular dated 24.09.2002 in ST category on the post on which a non ST candidate Shri Punnu Swamy was promoted, is legal and justified? To what relief the workman/Union is entitled?”

1. The reference dates back to 21.05.2012. Both the parties were served with the registered notice. The second party union requested to withdraw the reference and expressed unwillingness to prosecute the case.
2. The reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 273.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 64/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-12012/09/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 273.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 64/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 30.01.2017.

[No. L-12012/09/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 21st November, 2016

Reference: (CGITA) No. 64/2012

The Branch Manager,
State Bank of India,
Palanpur Branch, Gurunanak Chowk,
Palanpur (Banskantha)

...First Party

V/s

Shri Devda Sanjaykumar Himmatbhai,
Virbia Gate, Bhil Vass, Palanpur,
District – Banaskantha (Gujarat)

...Second Party

For the First Party :

For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/09/2012-IR(B-I) dated 20.03.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of State Bank of India in terminating the service of Shri Devda Sanjaykumar Himmatbhai w.e.f. 23.12.2006 without following the provisions of Sections 25F and 25G of the Industrial Dispute Act, 1947 is legal and justified? To what relief the workman is entitled?”

1. The reference dates back to 20.03.2012. Despite service and filing of vakalatpatra Ext. 5 on 12.02.2013 by the second party, second party did not prefer to submit the statement of claim. The first party has also not filed the written statement. On 03.02.2016, the second party was given last opportunity to submit the statement of claim but to no result. Since 12.02.2013, the second party workman has been absent. Thus it appears that the second party workman is not willing to prosecute the reference. Therefore the reference is decided as the action of the management of State Bank of India in terminating the service of Shri Devda Sanjaykumar Himmatbhai w.e.f. 23.12.2006 without following the provisions of Sections 25F and 25G of the Industrial Dispute Act, 1947 is legal and justified.

2. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 274.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 208/90) को प्रकाशित करती है जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-21011/26/78-डी- III (बी)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 274.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 208/90) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Western Coalfields Limited and their workmen, received by the Central Government on 30.01.2017.

[No. L-21011/26/78-D-III (B)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/208/90

General Secretary,
Sanyukta Koyla Mazdoor Sangh (AITUC),
Post Chandametta,
Distt. Chhindwara (MP)

...Workmen/Union

Versus

Manager, Eklehra Colliery,
Post Eklehra,
Distt. Chhindwara

...Management

AWARD

Passed on this 30th day of September 2016

1. As per letter dated 22-10-90 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-21011/26/78-D-III(B). The dispute under reference relates to:

“Whether the action of the management of Eklehra Colliery of WCL, PO Eklehra, Distt. Chhindwara (MP) in stopping Shri Mohanlal, S/o Ramsajeevan and 60 others given in the enclosed list from duty w.e.f. 21-6-87 and not paying the wages as given under National Coal Wage Agreement-III for the period of their service i.e. from January 1987 to 21-6-87 is justified? If not, to what relief the workers are entitled?”

2. After receiving reference, notices were issued to the parties. Ist party Union filed statement of claim at Page 3/1 to 3/7. Case of Ist party union is that it is oldest Union for industry having very large membership in Pench and Kanhan Area of WCL. It works for welfare and interest of the working class of coal industry. WCL is an undertaking of Government of India. It is required to act in a just fair and reasonable manner in dealing with the working class of the country. That WCL, Pench Area acted in illegal manner contrary to the declared policy of Government terminating services of 61 persons shown in the list with order of reference.

3. 2nd party further submits that more than 600 coal mines in India, mainly owned by private collieries. There was complete unfair labour practice by the management, the Central govt. therefore constituted a Central Wage Board for the coal mining industry for deciding the service conditions. The coal Wage Board was to consider and recommend the service conditions and wage construction of all persons employed in the mine while directly or through contractors. The Wage Board recommendations were accepted by the coal industry which was subsequently nationalized. The wages for all employees were fixed by such agreements. That claimants Mohanlal and 60 others were employed in WCL, Eklehra colliery in Pench Area from January 1986. They were employed for the work of (1) stone cutting, (2) earth cutting etc. in the coal mines. They were working in underground. All those persons were employed in the mine.

Their service conditions are governed by Coal Wage Board Recommendations and NCWA. They are entitled to wages of Group IV Category. All those claimants were working under direct control and supervision of the Under Manager, Assistant Manager, supervisors of WCL.

4. Ist party further contends that the claim of management that this work has been given to MECL on contract basis is incorrect. The contract work is prohibited in earth cutting, stone cutting and other connected job in the coal mines as per notification of 1975. Even otherwise the work is of permanent nature and coal mines have employed permanent workers for such work in colliery when colliery is open. This work can only be given to regular employees. That management not obtained registration neither MECL had taken the contract. Management did not have any agreement with MECL. Even if there is any agreement, the agreement is null and void. For practical purpose, the employees are of WCL. Management is bound to give them Group IV wages. The management denied wages of Group IV without justification. Management is liable to pay Group IV wages with interest to those 61 workers. That services of those 61 persons could be terminated only by order in writing by competent authority. Till date, no orders have been issued terminating services of the workmen. They are deemed to be in service and entitled to wages. Union further submits that workmen were employed for unlimited period for regular vacancy on permanent post. They completed 3 months satisfactory service therefore deemed to be permanent workmen. Their services could not be terminated without following procedure laid down in the standing orders. That notice of termination or letter of termination was not given to them. It is reiterated that management had given regular employment to those persons. They worked for few days as casual employees. Management of WCL sent all those persons for vocational training in their school and employed them. The work of incline, earth cutting, stone cutting are done by permanent employees of WCL.

5. Ist party Union further submits that there was agreement dated 17-7-84 with the management providing employment to 243 persons who worked as casuals. 334 persons were also given employment as per Arbitration Award by Shri S.D.Pandey. It is practice and procedure of the company to give regular employment to persons worked either with the management even artificially through a contractor. It is reiterated that the management deliberately refused to give regular employment to those persons only as their case is raised by Ist party Union. The stopping of employment orally is also in violation of provisions of Section 25-F,G,N of ID Act and amounts to retrenchment no permission for retrenchment was taken. There is no legal retrenchment. Claimants are deemed to be regular employees. On such ground, Ist party Union prays for regularisation of employment of all those claimants and wages as per NCWA-III.

6. 2nd party filed Written Statement at Page 8/1 to 8/7 opposing claim of Ist party union. 2nd party submits that the reference pertaining to claimants were not employed by WCL. There was no employer employee relationship. WCL had no control over those persons. They were employed by MECL another public sector undertaking. In absence of employer-employee relationship, there can be no Industrial dispute under Section 10 of ID Act. It is further contented that WCL & MECL entered into contract. MECL undertook the employee for particular work. Master servant relationship existed between the claimants and MECL. The contract for which MECL is engaged is not prohibited under Section 10 of Contract Labour (Regulation and Abolition) Act 1970. The reference is made by Central Government mechanically without application of mind. The reference is bad as MECL is not made party to the reference. The reference is without jurisdiction is liable to be rejected.

7. 2nd party further submits that MECL is undertaking of Government of India engaged in various works. It employees hundreds and thousands of workers on specific wage structure, standing orders and service conditions. That 61 claimants were employed by MECL and paid their wages in terms of conciliation settlement binding on it. Central government issued notification under section 10 on 15-2-75. The verbatim of notification is reproduced that the work by contract labours in coal mines is prohibited to (1) raising or raising cum selling of coal, (2) coal loading and unloading, (3) overburden removal and earth cutting, (4) soft coke manufacturing, (5) driving of stone drifts and miscellaneous cutting underground. Provided the notification shall not apply to (a) Quarries in the North East coalfields which can only be worked for a few months every year due to heavy rainfall in the area, (b) quarries located by the side of the river in Pench Valley and similar other patch deposits which can only be worked when the level of river has gone down and during non-rainy season.(c) Loading of coal when there is mechanical failure, failure of power or irregular supply of wagon by the railways, (d) cutting of stone drifts/ faults which cannot be detected in advance and are of short duration say upto six months. It is reiterated that MECL employed these workers for the purpose of incline cutting and since the work is over, their services were terminated by MECL. WCL had no hand in the termination of services. The employment was purely temporary for temporary work. A specific procedure is laid down for employment in WCL sponsoring by employment Exchange, selection by the committee. The claimants were not employed by MECL following prescribed procedure. WCL cannot be saddled for the relief as it has no concern with the matter, WCL has no concern with the claimants. Appointment letters are not issued by WCL. There is surplus staff. Management is handicapped by such surplus staff. It is submitted that there was no discussion on 14-8-87 between Union Representative and management regarding giving contract to MECL to agreement took place. It was agreed that driveage of new inclines and drifts are absolutely essential in the interest of viable operations and development of Pench and kanhan areas due to geological conditions. (ii) it was agreed that the contracts for driveage of new inclines being job

of non-prohibited category can be awarded to MECL or continued. (iv) as far as rate of wages by MECL to its workmen employed in pursuance of contract is concerned, it was conveyed by management that minimum wages as per MW Act prescribed by Central Govt. or concerned State Govt. whichever is higher is payable. The claim of the Representative of the Union for NCWA wages was not accepted.

8. It is further contented that the Union had no objection to contract being given to MECL. Union cannot go back from their own word. Workmen were stopped from working by MECL from 21-6-87. The stoppage was fully justified. In the circumstances, it is reiterated that 61 claimants were employed by MECL on its wage structure. Employees of MECL are entitled to wages specified in the agreement/ settlement. The claimants were not employed by coal company therefore there is no question of paying wages under NCWA. WCL cannot be held responsible for wages to the claimants engaged by MECL. On such ground, 2nd party submits that the claim of Ist party deserves to be rejected.

9. Ist party Union filed rejoinder at Page 17/1 to 17/4 reiterating most of its contentions in statement of claim. That notification referred by management specifically provides employment of contractors. There was no licence under CL(R&A) Act by WCL. That MECL is not necessary party. The Union is not concerned with MECL or its employees. All 61 claimants are required to be paid by WCL. Engaging MECL as contractor is unfair labour practice and unjust. Only claimants are employed in the mines. They are entitled to wages as per recommendations of Coal Wage Board. WCL deliberately failed to maintain necessary records. It is liable to be prosecuted for unfair labour practice.

10. The record shows MECL had filed its submissions objecting to be impleaded as party in the proceeding.

11. Management filed rejoinder at page 15/1 to 15/5 reiterating its contentions in Written Statement. Management contented that claimants were not engaged for underground work. They are not covered by Coal Wage Recommendations (NCWA). Management denied that the work in question is not prohibited as per the notification. The agreement with MECL is not null and void. The service of the claimants were terminated by MECL, WCL was not concerned with it.

12. Considering pleadings between parties, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether it is proved that contract entered between WCL & MECL is void, camouflage?	In Negative
(ii) Whether it is proved that the claimants were engaged for prohibited work under Contract Labour Act, 1970?	In Negative
(iii) whether it is proved that 61 claimants are employees of WCL?	In Negative
(iv) Whether the action of the management of WCL in stopping Shri Mohanlal, S/o Ramsajeevan and 60 others from duty w.e.f. 21-6-87 and not paying the wages as given under National Coal Wage Agreement-III for the period of their service i.e. from January 1987 to 21-6-87 is justified?	In Affirmative
(v) if so, to what relief the claimants are entitled?	Claimants are not entitled to any relief.

REASONS

13. Point No.1,2&3- Point No.1,2& 3 are interconnected and it is to be decided together. The term of reference pertains to stoppage of 61 claimants from 21-6-87 and not paying wages under NCWA-III to them. In statement of claim filed by Union, it is submitted that the claimants were employees of WCL. During course of argument, shri A.K.shashi for management submitted that the Union has filed two statement of claims. Ist statement of claim in Hindi and 2nd in English. However careful perusal of record shows statement of claim by Union was filed on 8-2-91. At Page 36/1 to 36/3 of the record, the submissions in Hindi is the note of argument, it is not statement of claim. Management submits that those 61 claimants were engaged by MECL, the agreement for work of incline cutting works are given to MECL. Claimants were not engaged by WCL rather they were engaged by MECL. From evidence of management's witness, agreement Exhibit M-1 is produced and admitted in evidence. The agreement pertains to work in Pench area shall be undertaken by MECL in Eklehra Rawanwara collieries. Said agreement pertains to the work of incline shaft underground drifting. The responsibilities of MECL are provided in Para 4.1 to execute the job as per directions of Project Officer of WCL. Manpower required for execution of works included in arriving at the rates required by

MECL shall be requisitioned by MECL from WCL and these manpower shall be provided subject to availability by immediate authorities. Exhibit M-2 is relating to the terms of payment on bills raised by MECL project wise. Annexure A pertains to payment of Rs.10,38,553 for work of incline shaft, miscellaneous work in Eklehra colliery. Exhibit M-3 is circular of registration. Exhibit M-4 is form II of Registration Certificate shows that for work of incline drive by contractor MECL, 50 workers were to be engaged.

14. Identical affidavit of evidence filed by claimant Surendra, Anandilal, Afsar Khan, Sheikh Jamiluddin, sheikh Shahid. All the claimants have stated that they were working underground in Eklehra colliery in 1987. They had received VCT Training. The work was carried by management of Eklehra colliery. They have mentioned their token No. 5596, 5595, 5624, 5603. Said work was suddenly closed on 21-6-87. Wages for some period were not paid to them. They were disengaged from 21-6-87. All the affidavit of claimants are silent how the agreement between WCL & MECL is bogus, camouflage. The claimant Shri Surendra in his cross examination says appointment letter was not given to him. He has not produced documents about VCT training. Form B was required to be filled for working underground. He was interviewed but he was unable to tell name of the officer conducting interview. That he had been to eklehra, one Madhushankar Babu had written his name. in his affidavit, he has not written year 1987. Shri Afsar Khan in his cross examination denies that he was working under contractor. Appointment letter was not given to him. He was not working under MECL. Sheikh Jamuliddin in his cross-examination says appointment letter was not received by him from management. He was provided VTC training, its documents are not produced. He had received document about training and it was deposited with WCL. He denies that he donot work under WCL. Shri sheikh Shahid in his cross says he has not received appointment letter, he has not produced documents about VTC training. The document of training was deposited with management, its acknowledgement was not obtained by him. He denies that he was working with contractor MECL.

15. Management's witness Gulab Hussain filed affidavit of his evidence supporting contentions in Written statement of the management that the claimants were engaged by MECL. WCL had entered into contract for carrying cutting work. Documents exhibit M-1 to 4 are admitted in evidence. Shri Gulab Hussain witness of management in his cross examination says he was working as general Mazdoor from 1-1-76. In 1988, he was working as Personal Officer in GM office, Pench Area. He was not concerned with the execution of agreement. Notification pertaining to the contract labours in coal mines was issued but he claims ignorance when such notification was issued. That notification of minimum wages are issued by MP Government.

16. Management's witness Shri Tapan Mitra filed affidavit of his evidence. His affidavit is devoted about the procedure for recruitment, candidates are sponsored through Employment Exchange etc. from his evidence, Exhibit M-5 is admitted.

17. Management's witness Shri Abhijit Dutta filed affidavit of his evidence, his affidavit is devoted about discussion between Union and management on 14-8-87. It was agreed that drive of new inclines and drifts were absolutely necessary. In his cross examination, Shri Abhijeet Dutta says during 87 to 90, he was working as Surveyor. He was not concerned with the tender agreement. He was not present at the time of agreement. From the documents of tender, he has stated that there was no employer employee relationship. From evidence of management's witness Shri R.N.singh, documents Exhibit W-23/1 to 23/21 loss and profit report are admitted in evidence. Those documents are not relevant for deciding Point No.1,2 &3.

18. Learned counsel for Ist party shri R.C.Shrivastava emphasized that the documents of management are illegally proved. In support of his argument, learned counsel reiterates on ratio held in case between-

Babu Anand Behari Lal versus Messrs Dinshaw and Company Bankers Limited, Lucknow reported in AIR(33)1946-Privy Council 24. Their Lordship dealing with section 63 of Evidence act held loss of original pleaded and copy offered in evidence copy cannot be admitted unless loss of original proved and copy is proved to be a correct copy.

Reliance is placed on ratio held in case between lala Laxminarayan versus Rukhmani reported in 1952-LLJ-49. Their Lordship held the evidence doesnot become admissible if objection is not taken. The objection to relevancy and also to admissibility of documents could be raised at any time.

Further reliance is placed on ratio held in case between Narsingh and others versus Shripat Singh and others reported in 2014-4-MPLJ-578. Their Lordship dealing with Section 63,65(C) of Evidence Act . his Lordship held in absence of existence of original documents, photocopy cannot be treated as secondary evidence.

In present case, documents Exhibit M-1 to m-4 are admitted in evidence, any question is not asked to the management's witness Shri Gulab Hussain w.r.t. originals of Exhibit M-1 to M-4 whereas document M-5 to 29 are certified copies of proved documents in R/155/99. Further examination of this witness shows that the witness had brought original of Exhibit M-1 to 4 therefore ratio held in above cases cannot be beneficially applied to present case.

19. Learned counsel for management shri A.K.shashi relies on ratio held in case between

Steel Authority of India Limited versus State of West Bengal and others reported in 2009-I-LLJ-241(SC). Their Lordship dealing with Section 7(1)(a) and 10 of ID Act and Section 10 of CL(R&A)Act held no pleading by workman that contract was sham and bogus, reference was quashed.

In present case, Union has pleaded in para-12 of Statement of claim that agreement is null and void therefore the ratio held in the case cannot be applied to case at hand.

Shri A.K.Shashi advanced argument on the basis of statement of claim submitted in Hindi. As discussed above supra, statement of claim was submitted, document at Page 36/1 to 36/3 was in form of notes of argument dated 30-10-98 and cannot be said statement of claim.

Shri A.K.Shashi relies on ratio held in case between International Airport Authority of India versus International Air Cargo workers Union and another reported in 2009(13)SCC-374. Their Lordship dealing with whether labour contract genuine or sham. Laid down test whether direction and control is with the principal employer or with contractor, has to be determined with reference to factors like who pays salary, who has power to initiate disciplinary action, to remove/ dismiss employee from service, who can tell employee the way work should be done etc. However where contract is merely to supply labour only, contract labour is bound to work under supervision of principal employer.

Witnesses of Ist party have absolutely not adduced their evidence on above points. Merely their contentions that merely on ground they were working with the management of WCL cannot be ground to hold that the contract was bogus, camouflage.

In case between Airports Authority of India Mumbai and Indian Airport Kamgar Union and others reported in 2011-I-LLJ-211 by Bombay High court. Her ladyship dealing with contract labour held reference made by Government regarding sham character of contract and directed contract labourers to be treated as permanent employees. Award held not sustainable. In para 32 of the judgment, evidence about working of the labours and control of payment of wages has been discussed.

Evidence of witnesses of Ist party is absolutely silent on the material points as to who had control on their work etc. claim of Ist party that the contract was camouflage or ruse cannot be accepted.

In case between Steel Authority of India Ltd. Versus union of India and others reported in 2006(12)SCC-233. Their Lordship held that industrial adjudicator should determine the issue related to whether the contract is sham and bogus.

Copy of award in Case No. R/197/98 is also submitted by Shri A.K.Shashi for consideration. In case of workmen of Nilgiri Coop.MKT Society Ltd. reported in 2004(3)Supreme Court Cases 514. In Para-37, their Lordship held the control test and the organization test, therefore, are not the only factors which can be said to be decisive. With a view to elicit the answer, the court is required to consider several factors which would have a bearing on the result (a) who is the appointing authority, (b) who is the paymaster, (c) who can dismiss, (d) how long alternative service lasts, (e) the extent of control and supervision, (f) the nature of the job e.g. whether it is professional or skilled work, (g) nature of establishment, (h) the right to reject.”

The witnesses of the Union have absolutely not adduced any evidence on above point. For reasons discussed above, the contentions of Ist party union that the contract between WCL & MECL is bogus or camouflage cannot be accepted.

20. Turning to the controversy whether 61 claimants represented by Union were engaged for prohibited work. Ist party Union has pleaded in para-8 of the statement of claim that the claimants were employed for work of stone cutting, earth cutting in coal mine in underground. In para-10, Government issued notification in 1975. However said notification is not produced by union. 2nd party in its written Statement in para 2(a) contends that contract for which MECL was engaged was not the work of prohibited category under CL(R&A)Act. The 2nd party has reproduced notification dated 15-2-75prohibiting the work of (1) raising or raising cum selling of coal, (2) coal loading and unloading, (3) overburden removal and earth cutting, (4) soft coke manufacturing, (5) driving of stone drifts and miscellaneous cutting underground. Provided the notification shall not apply to (a) Quarries in the North East coalfields which can only be worked for a few months every year due to heavy rainfall in the area, (b) quarries located by the side of the river in Pench Valley and similar other patch deposits which can only be worked when the level of river has gone down and during non-rainy season. The pleadings and evidence on record is clear that the claimants were engaged for work in Eklehra, Kanhan & Pench Area. It is covered by the exclusion (b) of the proviso. Though the notification of 1975 is not produced, same has been reproduced in Written Statement. It was not in rejoinder filed by the Union. Said notification was not disputed. Documents Exhibit W-1 to W-8 produced by ist party are certificates of training in mines on surface, below ground during that period. Merely from the training given to the claimants cannot render the contract as camouflage. The documents Exhibit M-3, M-4 is the certificate of registration under

CL(R&A)Act. The documents Exhibit m-5 shows payments made as per the bills. MECL was not contractor for supplying labour. Rather the work was carried by MECL under the contract. For above reasons, I record my finding on Point No.1,2& 3 in Negative.

21. Point No.4- the term of reference pertains to whether claimants were not paid wages as per NCWA-III. Evidence of management's witness Tapan Mitra is devoted about Bill Exhibit M-5 finalising the rates for open cutting and underground ripping done by MECL. Exhibit W-6,7 pertains to various items to be supplied to MECL.

22. Shri R.C.Shrivastava on behalf of Ist party argues that claimants are entitled for wages as per NCWA-III. The book w.r.t. NCWA-IV is made available for perusal. Its preamble deals with wage structure and other conditions of service including fringe benefits of employees employed in coal industry are at present covered under recommendations of coal wage board for coal mining industry as accepted by Government of India made applicable. It also refers to the dates of NCWA-I,II, III made applicable. NCWA III was made applicable from January 1983 to 31-12-86. Evidence on record shows that claimants were engaged for the work in Eklehra Mine during January 1987 to 21-6-87 prior to the period NCWA III was applicable. Besides above, as argued by Shri A.K.shashi for management, claimants have not clearly pleaded or adduced evidence at what rate wages were paid to them and to how much difference they are entitled for the wages as per NCWA-III. In absence of such details, claim of applicant cannot be allowed. As any of the details are not disclosed in pleadings and evidence of Ist party and its witnesses and their claim for difference of wages as per NCWA III, non-payment of wages as per NCWA-III cannot be said illegal.

23. Ist party Union has alleged that services of 61 claimants are stopped from 21-6-87. It is alleged to be retrenchment in violation of section 25-G,H,N of ID Act. The witnesses of Ist party have stated in their affidavit that they were working with SCL in 1987. Ist party in his statement of claim stated that they worked for 3 months and were entitled for regularisation. That services of claimants are not terminated by WCL and they are deemed to be in employment as such regularisation and entitled for regularisation and payment of wages. No evidence is on record that the claimants had worked more than 240 days preceding their engagement on 21-6-87. The term of reference doesnot pertain to legality of termination of their services therefore the different citations relied by Shri A.k.shashi w.r.t. section 25-G,H needs no detailed discussion.

24. Counsel for Ist party has not pointed out any provision that merely after working for 3 months, how claimants are entitled for regularisation in service. The claim of Ist party for regularisation cannot be accepted.

25. Shri R.C.Shrivastava during further course of argument submitted that payment of minimum wages alleged to have been paid by MECL is not proper, no minimum wages are prescribed for coal industry. My attention is pointed out to section 3 of MW Act 1948 which provides-

For fixing minimum wages after the period of 5 years by State or Central Government, the schedule under Minimum wages Act, Coal Industry is not included.

Merely on that ground claim under Ist party for wages under NCWA III cannot be upheld when their claim under NCWA-III is not covered by NCWA-III as NCWA was in force only till 1986.

Shri R.C.Shrivastava also pointed out my attention to form 11,13,14,15,16 under Contract Labour rules 1971. 2nd party has produced registration certificate, the agreements between WCL & MECL, the payments made under the bills. The contract between WCL & MECL is not proved to be camouflage. The claim for wages as per NCWA III cannot be accepted.

26. In view of my finding in above points, award is passed as under:-

- (1) The action of the management of Eklehra Colliery of WCL, PO Eklehra, Distt. Chhindwara (MP) in stopping Shri Mohanlal, S/o Ramsajeevan and 60 others given in the enclosed list from duty w.e.f. 21-6-87 and not paying the wages as given under National Coal Wage Agreement-III for the period of their service i.e. from January 1987 to 21-6-87 is legal and proper.
- (2) The claimants/ workmen are not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 275.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 26/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-22012/354/2002-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 275.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in Annexure, in the industrial dispute between the management of M/s. ECL and their workmen, received by the Central Government on 30.01.2017.

[No. L-22012/354/2002-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 26 OF 2003

PARTIES :

The management of 3 & 4 Incline, Jhanjra Area of M/s. ECL

Vs.

Sh. Uttam Kumar Ghosh

REPRESENTATIVES :

For the management : Sri P. K. Das, Learned Advocate

For the union (Workman) : Sri Manoj Mukherjee, Learned Advocate

Industry : Coal

State : West Bengal

Dated: 01.11.2016

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. **L-22012/354/2002-IR(CM-II)** dated 11.07.2003 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of 3 & 4 Incline Mine Under Jhanjra Area of M/s. Eastern Coalfields Limited in denyi8ng pay protection and arrears of wages to Sri U. K. Ghosh on his regularization as Welder Helper, Gr. II w.e.f. April, 1997 is legal and justified? If not, to what relief he is entitled?”

1. Having received the Order No. **L-22012/354/2002-IR(CM-II)** dated 11.07.2003 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. **26 of 2003** was registered on 21.07.2003. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. The workman Sri Uttam Kumar Ghosh has alleged in his written statement that he is permanent employee of M/s. Eastern Coalfields Limited and is presently posted at 3 & 4 Incline under Jhanjra Area of M/s. Eastern Coalfields Limited. He had been working as Underground Trammer in Category - III since 1993 and he continued as such till 1996. In year 1997 the workman was deployed by the management to work as Welder Helper vide Office Order No. 3705 dated 25.12.1996 to suit its exigency. But as he was deployed by the management to do the job of Welder Helper, he was being paid the then existing wages i.e. he had been paid the same wages which he was getting prior to his conversion up to March, 1997. But to his utter astonishment, his basic wages had all of a sudden being reduced from Rs.79.22/- (Rupees Seventy Nine and Twenty Two Paise only) per day to Rs.66.96/- (Rupees Sixty Six and Ninety Six Paise only) per day and his category was also demoted from Category – III to Category - II from 1st April, 1997. The workman repeatedly represented before the management for his the then existing wages and categories because he never asked for conversion of his deployment which was changed by the management. It is established principle of law

that deployment may be changed but under no circumstances existence wages can reduced nor the rank can be demoted. Management on his own accord had converted the category of workman without his request, the wages and rank of the workman should be protected. He should be given all entitlement and other incidental benefits from the date of change of his deployment. The workman has prayed that the tribunal may kindly hold the action of the management as illegal and arbitrary amounting to unfair labour practice and direct the management to protect the pay, wages and rank of the workman w.e.f. the date of conversion and pay to the workman the arrear of wages and all other incidental benefits.

3. The Agent of 3 & 4 Incline under Jhanjra Area of M/s. Eastern Coalfields Limited has denied the allegation of the workman by filing written statement. He has alleged in his written statement that there was vacancy of Welder Helper in Category - II at 3 & 4 Incline under Jhanjra Area of M/s. Eastern Coalfields Limited. Sri Uttam Kumar Ghosh, Underground Trammer of 3 & 4 Incline, U. Man No. 694483 expressed his inability to work in his existing designation and requested the management for lighter job. On the request of workman he was deputed as Welder Helper in Category - II. Sri Uttam Kumar Ghosh has approached the management to depute him in the job of Welder Helper Category - II. The management on considering his request and available vacancy in this designation was deployed as welder helper. On deployment as Welder Helper he continued in the job for 1 (One) year, thereafter he was regularized in the job he performed. The Order of changes was issued in the year 1996 and during the period of 10 (Ten) years he never approached the management for his grievances and continued to get the benefit during this period. If Sri Uttam Kumar Ghosh is at all interested to go back/revert back to his original job/category the management have no objection to depute him in his original category without any financial benefits or claim for the past period. The action of the management on the aforesaid facts is fully justified in denying the pay protection of the concerned workman and arrear of wages as per his entitlement. The concerned workman is not entitled for any relief as prayed by him.

4. The workman has filed following documentary evidences :-

(i) Photocopy of the Office Order of 3 & 4 Incline under Jhanjra Area bearing Ref. No. AGT/SM/JNR/3&4/96/3705 dated 25.12.1996, (ii) Photocopy of the Pay Slip of the concerned workman, Sri Uttam Kumar Ghosh for the month of January, 1997 and April, 1997, (iii) Photocopy of the Office Order issued by the Agent of 3 & 4 Incline bearing Ref. No. AGT/JNR/3&4/93/2247 dated 24.02.1993/30.03.1993,

The workman, Sri Uttam Kumar Ghosh has filed affidavit in his oral evidence. He has been cross examined by the learned advocate of 3 & 4 Incline under Jhanjra Area of M/s. Eastern Coalfields Limited.

The Agent of 3 & 4 Incline under Jhanjra Area of M/s. Eastern Coalfields Limited has not filed any documentary or oral evidence

I have heard Sri Manoj Mukherjee, learned advocate on behalf of the workman, Sri Uttam Kumar Ghosh and Sri P. K. Das, learned advocate on behalf of 3 & 4 Incline under Jhanjra Area of M/s. Eastern Coalfields Limited.

5. Sri Manoj Mukherjee, learned advocate has argued that workman concerned was working as Underground Trammer in Category - III but management '*suo motu*' deployed the workman, Sri Uttam Kumar Ghosh on the post of Welder Helper, Category - II denying him pay protection which is illegal and arbitrary. If any workman is deployed to lower category but his pay will be protected. He never requested for change of his designation / deployment.

On the other hand Sri P. K. Das, learned advocate has argued that Sri Uttam Kumar Ghosh requested for change of lighter job therefore on his request he was deployed as Welder Helper, Category - II. He is not entitled for protection of pay and arrear of wages.

6. It is admitted fact by both the parties that Sri Uttam Kumar Ghosh was a permanent employee of M/s. Eastern Coalfields Limited baring U. Man No. 694483. He was working as Underground Trammer, Category - III since 1993. It has been alleged by M/s. Eastern Coalfields Limited that Sri Uttam Kumar Ghosh was deployed on post of Welder Helper Category - II on his own request, but it has been denied by the workman Sri Uttam Kumar Ghosh. The workman has filed the photocopy of Office Order issued by the Agent of 3 & 4 Incline bearing Ref. No. AGT/JNR/3&4/93/2247 dated 24.02.1993/30.03.1993. It indicates that Sri Uttam Kumar Ghosh was deployed as Underground Trammer along with 39 workmen. The workman has filed Office Order of 3 & 4 Incline under Jhanjra Area bearing Ref. No. AGT/SM/JNR/3&4/96/3705 dated 25.12.1996. It indicates that Sri Uttam Kumar Ghosh has deployed to work as Welder Helper, Category - III by this Office Order. The workman has filed the photocopy of pay slip of January, 1997 and April, 1997. In January, 1997 he was getting basic wages as Rs.79.22/- (Rupees Seventy Nine and Twenty Two Paise only) and in April, 1997 as Rs.66.86/- (Rupees Sixty Six and Eighty Six Paise only) his pay has been reduced due to deployment on the post of Welder Helper, Category - II. The workman has stated in his affidavit that he never asked or approached the management for conversion and the management did the same on his own to meet its requirement. In cross-examination he has stated that his basic wage was illegally reduced by the management. He was demoted from Category - III to Category - II. His pay has been reduced.

7. The Agent of 3 & 4 Incline under Jhanjra Area of M/s. Eastern Coalfields Limited has not filed any documentary or oral evidence in support of their allegation. The Agent of 3 & 4 Incline under Jhanjra Area of M/s. Eastern Coalfields Limited has denied the pay protection on the vary basis that the workman concerned requested for his change of category for lighter job. Since the workman was deployed to lower category, on his own request, therefore, he is not entitled for pay protection or arrear of wages. If Sri Uttam Kumar Ghosh opted for change of category then his letter of request must have been filed on record. It is basic principle of law that burden of proof lies on the person who alleges a particular fact. Since management of 3 & 4 Incline under Jhanjra Area of M/s. Eastern Coalfields Limited has pleaded this fact the burden was on the Agent of 3 & 4 Incline under Jhanjra Area of M/s. Eastern Coalfields Limited to submit the letter of Sri Uttam Kumar Ghosh for change of category.

8. The Circular Letter of M/s. Eastern Coalfields Limited provides in Class - 37.2 :

“These standing orders will not in anyway curtail or adversely affect better privileges enjoyed by the existing workmen in any colliery / establishment.”

9. In view of above discussion the action of management of M/s. Eastern Coalfields Limited in denying pay protection and arrear of wages to Sri Uttam Kumar Ghosh on his regularization as Welder Helper Category - II w.e.f. April, 1997 is illegal and unjustified. Sri Uttam Kumar Ghosh is entitled for pay protection and arrear of wages w.e.f. April, 1997.

ORDER

Let an “Award” be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 276.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 62/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-22012/341/2003-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 276.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 62/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in Annexure, in the industrial dispute between the management of M/s. ECL and their workmen, received by the Central Government on 30.01.2017.

[No. L-22012/341/2003-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 62 OF 2004

PARTIES :

The management of Parasea 6 & 7 Incline of M/s. ECL

Vs.

Sri Siddique Mia

REPRESENTATIVES :

For the management : Sri P. K. Das, Learned Advocate

For the union (Workman) : Sri Manoj Mukherjee, Learned Advocate

Industry : Coal

State : West Bengal

Dated: 06.12.2016

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. **L-22012/341/2003-IR(CM-II)** dated 28.10.2004 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Parasea 6 & 7 Incline in not considering the date of birth mentioned in CMPF records of Sh. Siddique Mia is legal and justified? If not, to what relief the workman is entitled?”

1. Having received the Order No. **L-22012/341/2003-IR(CM-II)** dated 28.10.2004 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **62 of 2004** was registered on 08.11.2004. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.
2. The workman Sri Siddique Mia has stated, in brief, in his written statement that he was a permanent employee of private colliery. He was appointed by owner of the colliery on 24.10.1972 at Topsis Colliery. The management wrongly recoded his date of birth in the record. The colliery officials issued Identity Card on 15.3.1945. His date of birth has been written as 29 year in 1972. After receiving the Identity Card, workman protested against such erroneous recording regarding his date of birth. But the employer company did not pay any heed. The management displayed as per P.F record that the employee was entitled to serve till 2014. In this connection the actual record and photocopy of School Leaving Certificate are enclosed. In P.F record the date of birth of Sri Siddique Mia is recoded as 14.06.1954 which was submitted in the year 1972 at the time of appointment.
3. The management of Parasea 6 & 7 Incline of M/s. Eastern Coalfields Limited has stated in his written statement that Sri Siddique Mia was working as CCM, Driver at Parasea 6 & 7 Incline of M/s. Eastern Coalfields Limited. The ex-workman joined at Topsis colliery on 24.10.1972 prior to nationalization of coal mine and his age was recoded in the statutory Form ‘B’ Register as 29 years as on 24.10.1972. The ex-workman came on transfer to Parasea Colliery from Topsis Colliery, in the L.P.C. his date of birth was duly mentioned as 29 years as on 24.10.1972. The management also issued Identity Card to the ex-workman specifying his date of birth as 15.03.1945 as per service record. The Parasea 6 & 7 Incline of M/s. Eastern Coalfields Limited has denied that the date of birth of the ex-workman was ever recorded as 21.04.1949. The date of birth of the concerned ex-workman was correctly recorded as 15.03.1945 in the statutory Form ‘B’ Register by the ex-workman which was duly accepted by the ex-workman by putting his left thumb impression as token of acceptance of his recorded date of birth. In the year 1987 the date of birth of the ex-workman displayed as 24.10.1942 (1943) in the S. R. E. The ex-workman raised the dispute with regard to his date of birth by claiming it to be 14.06.1954, but there was no supporting document in support of date of birth of the ex-workman. The ex-workman was referred to the Apex Medical Board for determination of his age as per the guideline of I.I. No. 76 of J.B.C.C.I. The ex-workman appeared before the Apex Medical Board on 15.09.1992 and his age was assessed by the Apex Medical Board as 47½ (Forty Seven and Half) year as on 15.09.1992. The findings of Apex Medical Board was duly communicated to the ex-workman vide office order dated 04.12.1992. The management of Parasea 6 & 7 Incline of M/s. Eastern Coalfields Limited has denied that the result of the Apex Medical Board was not communicated to the ex-workman. The ex-workman filed writ petition before Hon’ble Kolkata High Court which was dismissed. The ex-workman also filed a title suite being T.S. No. 34 of 2005 by suppressing material fact. The workman is not entitled to any relief.
4. Workman has filed photocopy of Coal Mines Provident Fund as documentary evidence.

Sri Siddique Mia has filed affidavit in his oral evidence. He has been cross-examined by the learned advocate of Parasea 6 & 7 Incline of M/s. Eastern Coalfields Limited.

The management of Parasea 6 & 7 Incline of M/s. Eastern Coalfields Limited has not filed any documentary or oral evidence.

5. After service of notice Sri Manoj Mukherjee, learned advocate of the concerned workman never appeared after 27.04.2015. After 27.04.2015 eight dates were fixed for argument. Though Sri P. K. Das, learned advocate appeared on behalf of Parasea 6 & 7 Incline of M/s. Eastern Coalfields Limited, but since Sri Manoj Mukherjee, learned advocate of the concerned workman never appeared. Therefore tribunal with no option left reserved the reference for award.

6. It is admitted fact that the concerned workman Sri Siddique Mia was under employment before nationalization at Topsis colliery. After nationalization he was transferred from Topsis to Parasea 6 & 7 Incline of M/s. Eastern Coalfields Limited. Though workman has challenged his date of birth recorded in the records of M/s. Eastern Coalfields Limited. But he has nowhere stated his actual date of birth in his written statement. Copy of S.R.E. and Form 'B' Register has not been filed by Parasea 6 & 7 Incline of M/s. Eastern Coalfields Limited. Workman has not filed copy of School Leaving Certificate as stated by him in his written statement. Even in oral evidence the workman has not stated on oath his actual date of birth. Merely by accusing Parasea 6 & 7 Incline of M/s. Eastern Coalfields Limited for entering wrong date of birth will not entitle the concerned workman in reduction of his date of birth. The concerned workman must have filed documents regarding his actual date of birth. From perusal of his oral evidence it is apparent that he is not aware about his actual date of birth.

7. In light of above discussion the concerned workman Sri Siddique Mia is not entitled for any relief.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 277.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 19/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.01.2017 को प्राप्त हुआ था।

[सं. एल-22012/62/1997-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 277.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/1998) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in Annexure, in the industrial dispute between the management of M/s. ECL and their workmen, received by the Central Government on 30.01.2017.

[No. L-22012/62/1997-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 19 OF 1998

PARTIES :

The management of Kunustoria Colliery of M/s. ECL

Vs.

Smt. Rukhia Bhuia widow of Late Dayal Bhuia

REPRESENTATIVES :

For the management : Sri P. K. Das, Learned Advocate

For the union (Workman) : Sri Rakesh Kumar, Union Representative

Industry : Coal

State : West Bengal

Dated : 14.12.2016

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. **L-22012/62/1997-IR(CM-II)** dated 11.06.1998 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Kunustoria Colliery under Kunustoria Area of E.C.L. of not providing the employment to the wife of late Dayal Bhuia, Ex-Pump Khalasi as per the provisions of NCWA is justified? If not, to what relief the concerned dependent is entitled?”

1. Having received the Order No. **L-22012/62/1997-IR(CM-II)** dated 11.06.1998 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **19 of 1998** was registered on 25.06.1998. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. The applicant Smt. Rukhia Bhuia widow of Late Dayal Bhuia, ex-workman has stated in her written statement that her husband Late Dayal Bhuia was a permanent employee of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited. He was designated as Pump Khalasi. He was appointed in the company on 1973. Late Dayal Bhuia expired on 30.11.1981 while he was in service of the company. As per provision of National Coal Wage Agreement – II / III / IV & V one dependent will be provided employment in M/s. Eastern Coalfields Limited. Smt. Rukhia Bhuia widow of Late Dayal Bhuia was dependent on her deceased husband. Smt. Rukhia Bhuia widow of Late Dayal Bhuia preferred her claim for employment as per National Coal Wage Agreement. Personnel Manager of Kunustoria Area of M/s. Eastern Coalfields Limited by his letter No. A/KNT/P&IR/17/12509 dated 24.12.1990 advised the Agent informing that the Area Screening Committee will sit on 28.12.1990 at 10:00 A.M. at Area Training Center, Kunustoria Area to scrutinise the papers and for verification of the genuineness of the relationship of the nominees / dependents for providing employment proposal. The name of Smt. Rukhia Bhuia widow of Late Dayal Bhuia appears at Serial No. 17 of the list. Personnel Manager of Kunustoria Area of M/s. Eastern Coalfields Limited advised the Medical Superintendent of Kunustoria Area Hospital to arrange for medical examination of the dependents for employment vide his letter No. A.KNT/P&IR/7/12896 dated 02.01.1991. The name of Smt. Rukhia Bhuia appears at Serial No. 4 of the list. The Agent through his letter No. ECL/KNT/Per/Emp/369 dated 26.04.1991 informed Smt. Rukhia Bhuia that her employment proposal has been regretted by the competent authority vide letter No. A/KNT/P&IR/13/872 dated 17.04.1991. Union raised the dispute before Assistant Labour Commissioner (Central), Raniganj but it ended in failure. The provision of wage agreement does not provide any period within which employment should be provided. There is no justification for denying employment to the widow of the deceased. The union prayed that the Tribunal may kindly direct the management of M/s. Eastern Coalfields Limited to provide the employment to the widow of Late Dayal Bhuia and also to pay adequate compensation for abnormal delay in the form of cash compensation @ Rs.2000/- (Rupees Two Thousand only) per month from 01.12.1981 till employment is offered.

3. The Agent Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited has stated in his written statement that the cause of action arose as early as 30.11.81 but the dispute has been initiated as late as on 03.09.1990 without giving any explanation whatsoever. Smt. Rukhia Bhuia came forward with her claim as late as on 03.09.1990 and she was given a fitting reply by the Agent of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited by his letter dated 26.04.1991. The dispute should be declared as time barred. The claimant is not entitled to any relief.

4. The union has filed following documentary evidences :

(i) Xerox copy of the letter of Personnel Manager of Kunustoria Area of M/s. Eastern Coalfields Limited for appearing before Screening Committee at Area Training Center at Kunustoria Area on 28.12.1990, (ii) Xerox copy of the letter of Personnel Manager of Kunustoria Area of M/s. Eastern Coalfields Limited for appearing before initial Medical Examination Board, (iii) Xerox copy of the Pension Payment of Smt. Rukhia Bhuia widow of Late Dayal Bhuia, (iv) Xerox copy of the Survival Certificate of Smt. Rukhia Bhuia widow of Late Dayal Bhuia for payment of Pension, (v) Xerox copy of the application of Smt. Rukhia Bhuia widow of Late Dayal

Bhuia, (vi) Xerox copy of the Identity Bond submitted earlier, (vii) Xerox copy of the Identity Bond submitted in the year 1996, (viii) Xerox copy of the application of Smt. Rukhia Bhuia widow of Late Dayal Bhuia, (ix) Xerox copy of the Memorandum of Settlement signed by the Management of M/s. Eastern Coalfields Limited before Regional Labour Commissioner (Central) on 22.05.2007 and provision of N.C.W.A. for employment, (x) Xerox copy of the Aadhaar Card and PAN Card of Smt. Rukhia Bhuia.

Applicant Smt. Rukhia Bhuia has filed affidavit in her oral evidence. She has been cross-examined by the learned advocate of M/s. Eastern Coalfields Limited.

5. The management of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited has filed following documentary evidences :

(i) Letter of Screening Committee by which Smt. Rukhia Bhuia widow of Late Dayal Bhuia was called to appear before Screening Committee for providing employment to her vide letter No. A/KNT/P&IR/17/12509 dated 24.12.1990, (ii) Letter of Personnel Manager of Kunustoria Area of M/s. Eastern Coalfields Limited regarding initial medical examination of Smt. Rukhia Bhuia before providing employment to her, (iii) Application of Smt. Rukhia Bhuia addressed to Manager, Kunustoria Colliery of Kunustoria Area of M/s. Eastern Coalfields Limited for providing employment to her dated 03.09.1990, (iv) Letter of the Agent of Kunustoria Colliery vide No. ECL/KNT/PER/EMPLT/369 dated 26.04.1991.

The management of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited has not filed any oral evidence.

6. I have heard the argument of Sri Rakesh Kumar, union representative on behalf of Smt. Rukhia Bhuia widow of Late Dayal Bhuia and Sri P. K. Das, learned advocate on behalf of the management of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited.

7. Rakesh Kumar, union representative for the dependent of workman has argued that Smt. Rukhia Bhuia widow of Late Dayal Bhuia ought to have been provided employment as per National Coal Wage Agreement. Being dependent on her husband Late Dayal Bhuia she is entitled for employment. Denial of employment by the management of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited is illegal and unjustified. On the other hand Sri P. K. Das, learned advocate for the management has argued that the death of Late Dayal Bhuia occurred on 30.11.1981 while Smt. Rukhia Bhuia applied for the job in September, 1990. After scrutiny the management of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited regretted the employment proposal of Smt. Rukhia Bhuia. The decision of management of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited is justified.

8. It is admitted fact by both the parties that Late Dayal Bhuia husband of Smt. Rukhia Bhuia was under employment of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited. He was a permanent employee. It is also admitted fact that he expired on 30.11.1981 while he was in service of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited. The provisions National Coal Wage Agreement are as follows :

- (i) *The disablement of the worker concerned should arise from injury or disease, be of a permanent nature resulting into loss of employment and it should be so certified by the Coal Company concerned.*
- (ii) *In case of disablement arising out of general physical debility so certified by Coal Company concerned, not arising out of injury or disease in Para (i) above, the concerned employee will be eligible for the benefit under this Clause if the employee is upto the age of 58 years.*
- (iii) *The dependent for this purpose means the wife / husband as the case may be, unmarried daughter, son and legally adopted son. If no such direct dependent is available for employment, younger brother, widowed daughter/widowed daughter-in-law or son-in-law residing with the employee and almost wholly dependent on the earnings of the employees may be considered.*
- (iv) *The dependent to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years provided that the age-limit shall not apply in the case of spouse.*

9. Smt. Rukhia Bhuia applied for the job as dependent of Late Dayal Bhuia as on 03.09.1990. The photocopy of letter of Smt. Rukhia Bhuia is field on record. From perusal of documents filed by union it appears that the Agent of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited arranged for medical examination. But after scrutiny the management of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited regretted the employment proposal of Smt. Rukhia Bhuia and it was communicated to her by Ref. No. ECL/KNT/PER/EMPLOYMENT/369 dated 26.04.1991. The basis for non-employment to Smt. Rukhia Bhuia widow of Late Dayal Bhuia was delay on her part. Smt. Rukhia Bhuia has filed copy of Aadhaar Card and PAN Card in support of her age. The date of birth of Smt. Rukhia Bhuia as per Aadhaar card is 12.10.1950 and the date of birth as

per copy of PAN Card is 12.07.1955. The different dates of birth are entered in Aadhaar Card and PAN Card. But in any case at present Smt. Rukhia Bhuia is more than 60 year old therefore she is ineligible for employment at present.

ORDER

Let an “Award” be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 278.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 12/09) को प्रकाशित करती है जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-12012/329/2006-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 278.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/09) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Western Coalfields Limited and their workmen, received by the Central Government on 30.01.2017.

[No. L-12012/329/2006-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/12/2009

Zonal General Secretary,
C.Mewa Branch,
WCL, Ward No.10, Gudhi ,
PO Paalachaurai, Chhindwara

...Workman/Union

Versus

Chief General Manager,
Kanhana Area of WCL,
PO Dungaria,
Distt. Chhindwara

...Management

AWARD

Passed on this 11th day of August, 2016

1. As per letter dated 14-15/5/2008 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/329/2006-IR(CM-II). The dispute under reference relates to:

“Whether the demand of the Union for providing employment to Shri Santram, the son in law of Smt. Juganti Bai is legal and justified? If so, to what relief is the workman entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at Page 6/1 to 6/4. Case of Ist party is that Smt. Juganti Bai , wife of Ram Kripal was in employment. She died in harness leaving behind her daughter Ram Sakhi and son in law i.e. Ist party. That according to policy of 2nd party, in case of premature death of workman, dependent employment is provided to provide financial assistance. That instead of repeated applications submitted by Ist party, no heed was paid by management of WCL. Union had raised the dispute under reference. That as per Joint Bipartite Settlement between Union and management, clause 9/4/3 deals with dependent employment on compassionate ground includes son in law as dependent. That Ist party had submitted

application for compassionate appointment initially in 1993. At that time, he was within prescribed age limit. His application was not considered on the ground that Bittan Bai- another daughter of Juganti Bai had also applied for compassionate appointment though she was not dependent on Juganti Bai. That his application was unnecessarily kept pending for years together and ultimately rejected on the pretext that there is no rule for providing compassionate appointment to son in law. During her life time, Juganti Bai had submitted affidavit stating that Ist party is dependent on her. That 2nd daughter Bittan Bai had died. Juganti bai in her affidavit had clearly stated that her daughter Ramsakhi along with her 4 children were dependent on her. On such ground, Ist party is paying for direction to the 2nd party for his compassionate appointment.

3. 2nd party has filed Written Statement at Page 10/1 to 10/5 opposing claim of workman. 2nd party submits that Ist party is husband of Ramsakhi, daughter of Juganti Bai. Ist party was not member of the Union. Union has no locus to raise the dispute. Union had initially raised dispute claiming dependent employment to Shri Santram Yadav. Vide Ministry Order dated 9-5-07, Government refused to refer the dispute observing that age of the claimant was above 35 years not eligible for compassionate appointment. Said order was challenged in Writ Petition 2329/08. Hon'ble High Court vide order dated 29-2-08 directed Government to make reference. 2nd party further submits that service conditions of mine workers are governed by NCWA. Clause 9/4.0 deals with dependent employment of workman who is permanently disabled. Juganti bai was appointed as Mud Pallet maker. She was declared medically unfit on 1-1-1992. Juganti bai had declared her dependents in service record- daughter Bittan bai and Ramsakhi having age 25, 20 years. On 17-2-92, Juganti bai submitted application for providing employment to her daughter Bittan Bai. In said application, Juganti Bai had declared that her daughter was staying with her. She was left by her husband. In 1996, Juganti Bai submitted application for compassionate ground for her daughter Ramsakhi. Both the applications were not accepted as the married daughters were not covered for dependent employment. The application submitted by Ist party on 21-2-97 for dependent employment. Ist party had cross his limit of 36 years therefore his request was not accepted. 2nd party submits that Ist party has crossed age-limit. He is not eligible for dependent employment. On such ground, 2nd party prays for rejection of claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the demand of the Union for providing employment to Shri Santram, the son in law of Smt. Juganti Bai is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	Ist party is not entitled to any relief.

REASONS

5. The term of reference pertains to dependent employment of Ist party on compassionate ground. Ist party claims to be dependent of Juganti Bai as her son in law being husband of daughter Ramsakhi. Exhibit M-6 copy of NCWA-II clause 10.3.2 includes son in law residing with deceased as dependent may be considered to be dependent of deceased.

6. Ist party Santram filed affidavit of his evidence supporting his contentions in statement of claim that he is dependent of Juganti Bai being husband of her daughter Ramsakhi. That Juganti Bai had submitted application for dependent employment in 1992 and again the application was submitted by her on 14-4-93 for his dependent employment. His date of birth is 1-7-58. He was of age 33 years 5 months. In his cross-examination, Ist party says Juganti Bai was his mother in law. She had two daughters Bittan Bai and Ram Sakhi. He would remember date of birth. He was married with Ramsakhi, Bittan Bai died. She was married in 1971. That she has 4 children after marriage. His elder son is of 32 years of age. Juganti Bai was declared unfit on 1-1-92. Juganti Bai had first given name of Bittan Bai for dependent employment. She being married daughter, request was not accepted then Juganti Bai submitted name of his wife for dependent employment. Said request was also not accepted being married daughter of Juganti Bai. He submitted application for dependent employment on 14-4-93 and again on 21-2-97. When 2nd application was submitted, his age was 38 years 7 months. Age-limit for dependent employment is shown 35 years in Ex.M-6. The evidence on record shows that Juganti Bai had recommended employment for her both daughters and that her request was not accepted. She had submitted application in favour of the Ist party. The documents Exhibit W-7 produced by Ist party in support of his claim that application for dependent employment was submitted by him in 1993. Exhibit W-7 bears office seal about receiving the application. Office seal is not bearing signatures of any official and therefore said document appears suspicious. My attention is pointed out to Exhibit W-5. Application dated 26-3-99 submitted by Union President Shri Thakkar finds reference of application dated 1-7-93 submitted by Ist party for dependent employment. Even if said application is accepted and it is admitted by 2nd party, the dependent employment of Ist party cannot be accepted as date of birth of Ist party is 1-7-58 and he has attained age above 58 years whereas the age for

dependent employment is 35 years as per Exhibit M-6. Besides above, the evidence of Ist party shows that he was dependent on his mother in law. When Jugati Bai was declared medically unfit and she was unable to render the service, how the Ist party younger in age to Juganti Bai would be dependent on her income. The evidence is not convincing that Ist party was dependent on income of Juganti Bai.

7. Learned counsel for Ist party Shri Arun Patel relies on ratio held in

Case between Bank of Maharashtra and another versus Manoj Kumar Deharia reported in 2010(3)MPLJ-213. Ratio held in the case pertains to that such appointments granted under special scheme carved out de hors the normal mode of recruitment, the same has to be governed as per the policies or provisions governing such appointment prevalent at a particular point of time when consideration is to be made and not on the basis of a policy which was in vogue and has been given up by the employer due to changed circumstances.

The ratio held in the case cannot be beneficially applied to case at hand as Ist party has attained age more than 58 years. When his application was submitted in the year 1993, 97, age of Ist party was more than 35 years.

8. Shri A.K. Shashi has also relied on same ratio. For the reasons discussed above, I do not find substance in claim of applicant for dependent employment. Therefore I record my finding in Point No.1 in Negative.

9. In the result, award is passed as under:-

- (1) The demand of Union is not legal and proper.
- (2) Ist party is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 जनवरी, 2017

का.आ. 279.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 71/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-22013/1/2017-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 30th January, 2017

S.O. 279.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 71/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of M/s. Singareni Collieries Co. Ltd. and their workmen, received by the Central Government on 30.01.2017.

[No. L-22013/1/2017-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated : the 23rd day of September, 2016

INDUSTRIAL DISPUTE L.C. No. 71/2007

Between :

Sri Md. Athiq Khan,
S/o Md. Dasthagir,
C/o Smt. A. Sarojana, Advocate,
Flat No. G7, Ground Floor,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad

...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri Area, Mandamarri,
Adilabad District.
2. The Superintendent of Mines,
M/s. Singareni Collieries Company Ltd.,
KK-5A Incline, Mandamarri,
Adilabad District

...Respondents

Appearances :

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent: M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

Sri Md. Athiq Khan, who worked as Badli filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring proceeding No. MMR/PER/D/072/772 dated 24.2.2003 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed as badli filler on 1.4.2000 in 1st Respondent's company and rendered his services sincerely. While the matter stood thus, charge sheet dated 18.2.2002 was issued by the Respondents alleging that the Petitioner absented for duty during the year 2001, which amounts to misconduct under company's Standing Order No.25.25. Subsequently an enquiry was conducted by the Department without the knowledge of the Petitioner and proceeding dated 24.2.2003 was issued consequent upon the exparte enquiry conducted and lastly the Petitioner was dismissed from service. It is submitted that the mother of the Petitioner was suffering from renal problem and had undergone treatment at Yashoda Hospital and NIMS, Hyderabad from the year 2001 to 2003. But, as no other male family member was available to look after his ailing mother, the Petitioner had accompanied his mother during her illness. After several treatments his mother expired on 14.11.2003. It is also submitted that the Petitioner was not aware of issuance of the charge sheet, or its publication in the newspaper due to which he could not be able to participate in the enquiry. He remained absent from duty only on account of his mother's sickness which ought not to have been treated as a serious misconduct. The Petitioner made the abvoe stated submissions, but without considering any of his submissions, the Petitioner was dismissed from service vide office order dated 24.2.2003. It is also stated that the action of the Respondent management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of principles of natural justice. The Petitioner approached the Respondents to consider his case sympathetically but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned Order No. MMR/PER/D/072/772 dated 24.2.2003 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondents filed counter denying the averments made in the petition, with averments in brief as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner has been dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the enquiry fixed on 3.6.2002 and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. The Petitioner admitted his mistake before the Enquiry Officer. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. Petitioner in his deposition before the Enquiry Officer stated that during the year 2001 due to his ill health he remained absent from duties and assured to be careful and work without absence in future. Contrary to this, the Petitioner is citing ill health of his mother as the reason for his absenteeism without any documentary evidence. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice No. MMR/PER/D/072/5005 dated 1.12.2002 giving an opportunity to make representation against the findings of the enquiry report. It is further stated that as the charge levelled against the Petitioner was proved and it was serious in nature, punishment warranted was dismissal from

service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take any lenient view and lastly, Respondent No.1 was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuance of charge sheet, and receipt of show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition be dismissed in limini.

4. The domestic enquiry conducted in the present case is held as legal and valid vide order dated 24.2.2009, basing on the memo filed by the counsel for the Petitioner, which had been filed not to challenge the validity of the domestic enquiry.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. **In view of the above facts, the points for determination are:**

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Md. Athiq Khan is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.1:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to his mother's illness, the Petitioner could not be able to attend his duty sincerely. But on account of absenteeism capital punishment of dismissal from service has been imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness and the illness of his mother he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. But, the authority without considering the genuineness of the absenteeism has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondent company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous, remaining absent is not unusual. In this case, due to illness of the Petitioner and his mother, the Petitioner could not be able to be regular in his duty and a proceeding was initiated for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment has been imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He being the sole bread earner of his family has already realised his mistake and has taken shelter in the court and is ready to provide bread and butter to his family members. When he has already realised his mistake atleast one chance should be given to him for reinstatement into service. Further more, while imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondent for dismissal of service is too harsh. Therefore, it can safely be stated that the action of the management in imposing the punishment of dismissal from service to Sri Md. Athiq Khan is not legal and justified.

This point is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Md. Athiq Khan is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. Now, after dismissal of service the Petitioner has become jobless and he being the sole earning member of his family, is unable to provide a square meal to his family members. In such a circumstances, atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondent's management. But the Petitioner is not entitled to get the relief as claimed in his petition. But he is entitled to be given a chance to work in the Respondent's management to maintain his livelihood.

Thus, Point Nos. II & III are answered accordingly.

ORDER

It is ordered that the workman Sri Md. Athiq Khan be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain minimum mandatory 20 musters every month and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will be terminated without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 23rd day of September, 2016.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL